Chinese Workers in Comparative Perspective

Edited by
Anita Chan

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Acknowledgments

Analyzing labor conditions comparatively can elicit insights. In the study of Chinese factory labor the focus has been almost entirely on China itself, with scant reference or comparison to workers and work conditions in other countries. The aim of this book is to open up this wider window and through that gain new perspectives that will enable us to better understand the changes underway in China.

The opportunity came when the China Research Centre, University of Technology, Sydney (UTS), developed a program to fund an annual international conference. I took on the responsibility to organize the conference Chinese Workers in Comparative Perspective in November 2011. The chapters collected in this book are based on papers originally presented at the conference by scholars from four continents who specialize in Chinese labor. Thanks are due to Claire Moore for taking care of the logistics of the conference; Richard Appelbaum for reading the manuscript and providing valuable suggestions to authors; Dayaneetha de Silva for editing the entire manuscript before its submission to ILR Press; Katy Meigs for copyediting for Cornell University Press; the Faculty of Arts and Social Science, UTS, for underwriting part of the publication costs; and finally to Frances Benson, editorial director of ILR Press, for her unfailing support in enhancing the quality of the manuscript and getting it published.

Abbreviations

ACFTU	All-China Federation of Trade Unions
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
CBA	collective bargaining agreement
CCP	Chinese Communist Party
CFL	China Federation of Labor
CPI	consumer price index
CSR	corporate social responsibility
FDI	foreign direct investment
FIE	foreign-invested enterprises
FNPR	Federation of Independent Trade Unions of Russia
GDFTU	Guangdong Provincial Federation of Trade Unions
GDP	gross domestic product
GZFTU	Guangzhou Federation of Trade Unions
HCMC	Ho Chi Minh City
ICJLR	International Center for Joint Labor Research
ILO	International Labor Organization
IR	industrial relations
ITUC	International Trade Union Confederation
JV	joint venture
KMT	Kuomintang (Nationalist Party)
LNGO	labor nongovernmental organization
MOLISA	Ministry of Labor and Social Affairs
NBS	National Bureau of Statistics of China
NGO	nongovernmental organization
OEM	original-equipment manufacturer
PRC	People's Republic of China
PRD	Pearl River Delta
SASAC	State-Owned Asset Supervision and Administration Committee
SFTU	Shenzhen Federation of Trade Unions
SMEs	small and medium-sized enterprises
SOE	state-owned enterprise
SWC	staff and workers' congress

SWRC	staff and workers' representative congress
VCA	Vietnam Cooperative Association
VCCI	Vietnam Chamber of Commerce and Industry
VGCL	Vietnam General Confederation of Labor
VoC	varieties of capitalism

CHINESE WORKERS IN COMPARATIVE PERSPECTIVE

Introduction

THE FALLACY OF CHINESE EXCEPTIONALISM

Anita Chan

In Chinese publications the catchphrase "socialism with Chinese characteristics" frequently is used to describe China's current economic system. The Chinese Communist Party provides a loose official definition: "Socialism with Chinese characteristics combines the basic principles of scientific socialism with the factors of building socialism unique to China."[1] The definition essentializes "exceptionalism" by using the word "unique." This has its pragmatic functions: it is conveniently used by Chinese decision makers, bureaucrats, and defenders of the greatness of China to ward off having to adopt internationally recognized practices. Foreign scholars, too, often endorse the notion of Chinese exceptionalism, though of a different kind. Their choice stems from having a myopic view of whatever they are studying about China. So preoccupied and immersed are they in a world of Chineseness that they often do not extract themselves and ask the question: Are Chinese characteristics also shared by other nations? At a scholarly level, Chinese exceptionalism pervades many of the disciplines relating to China—in Chinese culture, Chinese history, or Chinese political practices, for example.[2] Commenting on this, Louise Edwards raises the interesting idea of "academic apartheid" when she writes, "The notion that China in some ways presents a 'special case' has hitherto prevented Chinese history from interacting convincingly with history studies more broadly. But such academic apartheid also participates in the tiresome and potentially dangerous pathologizing of 'China' as either especially 'victimized' in global politics or especially 'mysterious' and incomprehensible."[3] On China's recent "peaceful rise" William Callahan

expresses a different kind of worry that "Eurocentrism is replaced by Sinocentrism, Westernization is replaced by "Easternization, and American exceptionalism is replaced by Chinese exceptionalism."[4] To my mind the exceptionalism paradigm stultifies our search for a deeper understanding of China.

Size of the Chinese Labor Force as an Issue of Exceptionalism

If there is one feature that contributes to the notion of Chinese labor exceptionalism it is its gargantuan size. As industrialization steamed ahead in China, and a workforce of several hundreds of millions emerged from the countryside and entered the labor market, the enormity of the impact on international labor could not seem anything but exceptional. China's exceptional size exerts a dominating effect on other poor nations. Newly industrializing countries in the global South, especially in Asia, felt obliged to compete by undercutting China's low wages and poor labor standards. Because of the size of its workforce, China's entry into the world's labor market drove wages to the bottom among poor countries.[5] Alongside this, the poor working conditions in China's vast export sector attracted unrelenting criticism from the developed world (in particular from Western trade unions) as if Chinese workers' conditions are exceptionally abhorrent. In point of fact, many countries' work conditions, such as in India and Pakistan as shown in Chapter 6, are worse than China's.

China has also been treated as "exceptional" in that it is among a handful of countries in the world that still declare themselves "socialist" and that do not allow free trade unionism. The international trade union movement in the 1990s and early 2000s, under the umbrella of the International Confederation of Free Trade Unions (ICFTU), was particularly critical of the All-China Federation of Trade Unions (ACFTU) as the handmaiden of, and window dressing for, a Communist state. Despite a toned-down criticism, the pressing issue is still China's violation of the International Labor Organization's two core labor standards: freedom of association (ILO convention no. 87) and the right to organize and engage in collective bargaining (ILO convention no. 98). Admittedly, China is not exceptional in not ratifying or practicing these two conventions, and many countries often violate these principles in practice. In this sense, China is no exception.

Internationally isolated, the ACFTU for its own bureaucratic reasons was eager to join the International Confederation of Free Trade Unions. The annual debate among the members of the international organization on how to deal with the ACFTU has been intense. It was not until 2007 that the International Confederation of Free Trade Unions, renamed the International Trade Union

Confederation (ITUC), began a dialogue with the ACFTU.[6] Today, while the ITUC has a total international trade union membership of 175 million workers, the ACFTU has more than 239 million members.[7] The implications of letting the ACFTU join are considerable and invite caution from the ITUC.[8]

The Chinese, on their part, tend to see the United States as exceptional and all-important as a world power. During the two and half decades that I have been conducting research on labor in China, I have observed that when the Chinese compare themselves with the "Western model," they mistakenly equate this with the "American model." The Chinese generally do not know that there is also a European model, nor, in fact, do the Americans realize the European employment and labor systems are different from their own. Americans regard their labor system as one to be emulated. This view is also prevalent among Chinese scholars, who are critical of their own authoritarian labor system and compare it unfavorably with that of the United States, in which workers have freedom of association, the right to strike, high pay and benefits, and so on. Even Chinese trade unionists who are irritated with the American trade unions' criticism of the ACFTU and adamantly defend the "Chinese characteristic" argument sometimes also regard the US system as superior. Americans and Chinese perceive themselves and each other as exceptional—either positively or negatively so.

From Exceptionalism to Comparativism

A major problem with the concept of Chinese exceptionalism is that it diverts researchers' and analysts' attention away from looking for fundamental similarities and differences between China and other national systems. True, every nation's labor system has its own social, cultural, political, and historical trajectories. In this sense every system is unique, but on examination national systems also share commonalities, and some of these may even be universal. By comparing one facet of each nation's system against facets of other systems, we can uncover explanatory factors that we might have missed. Comparative analysis leads to insights, sharpens our intellect, and, one hopes, reduces bias and prejudice.

To this end, I organized a workshop and invited scholars from four continents who specialize in Chinese workers to prepare chapters for this book that either compare China with other countries or examine and compare various sectors within China. Their work is both cross-national and intranational in outlook. The authors of these chapters variously compare Chinese industrial labor in its socialist/postsocialist contexts, in a corporatist context, within the context of a developing country, and place mainland China alongside Taiwan. Some chapters compare two industries or two regions of China that help to sensitize us

to variations and complexities within the spectrum of Chinese labor. It is my hope that this collection can help to dispel erroneous views about Chinese labor held by the international labor community, which is unrealistically optimistic about the militancy of Chinese workers, overestimates Chinese migrant workers' ability to organize, is either overenthusiastic or unfairly critical of the impact of labor nongovernmental organizations (LNGOs) on China's labor movement, and either demonizes Chinese trade unions or is overly enthusiastic that they are reforming themselves. My fundamental intent in this book is to confront those interested in China's labor force and with global labor with an objective and comparative view of China. Chinese labor should be analyzed in relative terms that will allow us to have a better grasp of the issues and not measure China against an ideal Western model. Admittedly, China is a big elephant that requires much research and comparative analysis. This collection is only the beginning of such an effort.

The book is divided into three sections. The first focuses on historical and structural developments in China and compares these with industrial relations systems in three other countries. This provides background and historical perspective on the trajectories of current systems. The second focuses on external factors, such as the role of the state and globalization, on labor regimes and labor standards. The third section focuses on efforts to reshape labor regimes and standards in order to improve the circumstances of workers.

Historical and Structural Developments

A country's present economic and employment systems are the products of incessant change. The two chapters included in part 1 examine these forces of change and their effect on current institutions while comparing the Chinese system with the experiences of other countries. In chapter 1, the German scholar Boy Lüthje compares German and Japanese joint-venture firms in China. In chapter 2, four US-based scholars, Mingwei Liu, Frederick Scott Bentley, Mary Huong Thi Evans, and Susan J. Schurman, compare the American and Chinese industrial relations systems. Both chapters invoke the concept of state corporatism. Chinese corporatism has been a contentious subject discussed by Western scholars for some time. The main debate has been whether China is a corporatist state and, if so, whether this has been eroded and decentralized through the emergence of civil society.[9]

Lüthje enters this debate from the framework of "varieties of capitalism" that dichotomizes capitalist systems into "liberal market economies" and

"coordinated market economies."[10] Lüthje subscribes to the notion that China, Germany, and Japan share features of corporatist structures with coordinated market economies in contradistinction to the neoliberal market economies of the United States and Great Britain. However, finding the framework's emphasis on institutions too static a model, he privileges a notion of the dynamics of change that evolves into various types of corporatism and varieties of capitalism. Corporatism and capitalism, as he sees them, are constantly changing as they face the challenges of globalization. To illustrate what he sees as the fluidity of systems, he uses Sino-German and Sino-Japanese automobile manufacturing ventures in China as case studies. He shows that nationally distinctive management styles manifest themselves and affect industrial relations within these German and Japanese joint ventures. He explains why Sino-German joint ventures have more harmonious industrial relations in China than Sino-Japanese joint ventures, which experience more confrontation in their supply chains. He also concludes that the shape of labor policies in China asserts itself in all of these joint ventures.

While Lüthje argues that institutional structures are continually changing, Liu and his coauthors identify the driving force of change as globalization. This brings us to the other major variant of capitalism, the neoliberal Anglo-Saxon variant that Lüthje refers to. Liu and his coauthors argue that the American and Chinese industrial relations systems are converging. In the United States, a declining and divided trade union movement is stymied by labor laws that ostensibly allow freedom of association but in essence restrict such freedom, while strike laws allow strikes but make organizing strikes extremely difficult. Worse yet, US trade unions are not able to get Congress to pass new laws that can arrest the unions' decline. The democratic political system works against such efforts. By contrast, in China the state and the ACFTU have been able to pass pro-labor legislation in the past two decades, but because of the weak observance of laws in China, much of the legislation has not been implemented locally. Because of the lax enforcement of these laws, Chinese workers have lost out under globalization. Both US and Chinese workers suffer the brunt of "flexibilization" of labor, with precarious job tenure increasing at a rapid rate.

Liu and his coauthors introduce the concept of "converging divergence." Having adopted a market economy and integrating it with the global economy, China is converging toward the American model; at the same time, both nations' workforces are witnessing diverging domestic conditions, resulting in increasing socioeconomic inequality. In labor relations, the big difference between the two countries is that Chinese trade unions are under state control while US trade unions are autonomous. Nonetheless, under the power of global capitalism these

two "exceptional" nations share something in common: huge sectors of unorganized labor and trade unions that are struggling for legitimacy in the eyes of the working class and for survival as institutions.

To a certain extent, Lüthje and Liu look at China's industrial relations system under slightly different lights. Lüthje emphasizes empirical evidence of corporatist Chinese structures as well as measures found in coordinated economies, and he observes that state intervention through the increasing enactment of laws and regular increases in the minimum wage help contain labor unrest. In contrast, Liu and his colleagues emphasize the neoliberal aspects of the Chinese system. Which scenario approximates the real situation better—Chinese labor being somewhat protected by the state or a laxly regulated Chinese industrial labor force in free fall? This is a controversial question. Attempts at answers can be found in the next section, which is devoted to examining indicators that reflect the effect of state policies on labor conditions, in comparison with other countries and within different parts of China itself.

The Role of the State, Globalization, and Labor Standards

Through the use of empirical studies, authors in part 2 of the book examine and compare the impact of globalization on labor standards in China as against its impact on poorer countries such as Vietnam, India, and Pakistan. Globalization is an important driver that these less-developed countries all have to contend with as transnational capital scours the world for cheap labor. How are Chinese workers' livelihoods and work conditions affected? How do different groupings of Chinese workers working in different parts of the country, in different sectors of the economy, and living under the shadow of local governments and firms competing to offer the best investment climate sustain themselves? How do workers in other developing countries contend with the competition emanating from China? Kevin Lin in chapter 3 and Florian Butollo in chapter 4 compare labor standards within China under the impact of globalization. Kaxton Siu in chapter 5 and I along with Hong Xue, Peter Lund-Thomsen, Khalid Nadvi, and Navjote Khara in chapter 6 compare China's labor standards with those in three poorer countries. In these four chapters the authors identify the various key factors and players in the manufacturing process that affect labor standards. The information in these chapters makes clear that two fundamental factors are largely responsible for shaping labor standards—the state and the ubiquitous force of globalization.

In China, the state has been the main actor organizing and restructuring the country's economy to integrate it with the global economy. Lin shows how the state, in response to competitive global market forces, has allowed state-owned enterprises to adopt a two-tier workforce system. Butollo shows how, at the local level, the Guangdong government played a major role in facilitating technological upgrading. Siu analyzes in detail the labor laws enacted by the Chinese and Vietnamese governments that ensure that their minimum-wage policies do not undermine their competitiveness in the international labor market. Similarly, my colleagues and I show that in China, Pakistan, and India the governments passed labor laws and implemented policies that influenced their respective international market share in the production of soccer balls. In sum, the visible hands of state laws and policies and the competitive pull of globalization have played critical roles in shaping the industrial relations systems in the countries examined in part 2.

In addition, Lin's study of Chinese state-sector workers and their working conditions focuses on a major economic sector in China that has drawn little academic interest after the massive layoffs of tens of millions of state-enterprise workers at the height of industrial restructuring in the late 1990s. Lin shows how, after the end of lifetime employment for Chinese state workers and the introduction of a labor-contract system, state workers became threatened by precarious employment, lower labor standards, and eroded benefits, to the extent that their conditions are converging toward those suffered by Chinese migrant workers. He discovered that workers hired directly by state enterprises still enjoy some of the paternalistic legacy of the previous planned-economy period, with job security, good fringe benefits, and entitlements. Their work hours are comparatively shorter and their wages a bit higher than those of migrant workers in China's export sector. But during the past decade state enterprises have created a two-tier workforce. There is now a rapidly growing population of "dispatch workers" (temporary workers), estimated to be as many as sixty million, who are hired through agencies. They work side by side with regular workers doing the same kind of work but for lower pay and fewer benefits. This large group of precariously situated workers have one-year or two-year contracts—or none at all. This is the most significant new factor in the expanding flexibility in employment described by Lüthje and Liu. In this sense, there is convergence between China, the United States, and even Germany.[11] The Chinese working class as a whole is losing out in this turn of events, while the Chinese middle classes and the ruling elite are big gainers, which leads to increasing socioeconomic disparities. Lin argues that the long-held view that there is a divide between workers in state enterprises and migrant workers in the private and foreign-funded firms is

no longer entirely valid. It is time to consider the changes these two main groups of workers are experiencing as interrelated processes of transformation—the remaking of the Chinese working class.

There is a popular view that as a country moves through a labor-intensive industrial stage to a more advanced stage of industrial technology, there will be a tandem upgrading of workers' skills leading to overall socioeconomic improvements. A better-educated and better-trained workforce that demands higher wages will pull the rest of the less-skilled workforce along with it. Butollo's comparison of the garment and LED lighting industries in Guangdong Province shows, however, that socioeconomic upgrading does not necessarily follow in the wake of government-initiated technological upgrading. The upgrading and automation of the two industries reveal important differences in their respective organization of production, upgrading strategies, skills, and wage systems. Yet in both industries there is a bifurcation of manual assembly-line tasks and knowledge-intensive tasks (in management, design, R & D, etc.). The greater the automation, the more repetitive, de-skilled, and boring is the work on the line. Workers are subjected to either labor intensification or wage stagnation. Working conditions are becoming so unattractive in Guangdong that, after weighing the slightly higher wages there against the advantages of working in their home provinces, many migrant workers prefer to stay put, which has led to a labor shortage in Guangdong. But firms there still refuse to raise wages. Instead, they prefer to relocate to low-wage areas either further inland in China or abroad. Upgrading strategies therefore have provided very limited benefits for manual workers even in technologically sophisticated enterprises. Butollo concludes that this trend will generate greater labor unrest in Guangdong Province.

On the cross-national level, we might surmise that the reactions of China and Vietnam to globalization would be quite similar. Both countries remain under one-party rule. Their so-called market socialism is designed to keep wages competitively low in the export sector to attract foreign direct investment (FDI). While this is generally true, Siu, based on two surveys of eight hundred workers in the garment industry in China and Vietnam, reveals that both Chinese and Vietnamese workers are going through hard times, albeit differently. Chinese workers have more than enough to eat but face harsh working conditions, particularly in terms of excessively long hours; Vietnamese workers are not forced to work as many overtime hours, but they have to struggle to meet their basic needs for food and shelter. Siu raises the question: Why do foreign investors not make Vietnamese workers work as many hours as Chinese workers? His analysis shows that this is owing to a bundle of interrelated factors: differences in each country's labor laws, factory overtime policy and compensation arrangements, trade

union attitudes, and workers' readiness to go on strike. We are presented with a situation in which globalization has forced national governments to undertake strategies that have engendered different outcomes.

In a similar way, in the chapter that I and my colleagues have coauthored on soccer ball production in China, India, and Pakistan, we find that the role of the state has been very important in shaping industrial relations and labor standards. All three countries have been competing to attract FDI in this industry; all are at the end of the global production chain. The main drivers are brand-name corporations that compete against one another to maximize profits and cut costs. Of the three countries, China is the only one that has the capacity to prevent a free fall to the bottom in terms of working conditions and wages. By using its national labor laws, it has been able to maintain and improve wage levels. Pakistan and India, in contrast, passed laws that diminish the state's regulatory functions. In both countries these laws have encouraged capital to establish small workshops rather than large production facilities, which in effect excludes the majority of the manufacturing workforce from legal protections. This has resulted in a proliferation of home workers laboring in isolated settings, which is detrimental to the development of collective awareness and collective actions. Over time, the compensation of these home workers has fallen below a living wage. With parents unable to afford school fees, children of home workers have to stay home. The only solution for these impoverished parents is to put their children to work stitching balls for a few rupees a day. Both the Indian and Pakistani governments and capital have held on to the belief that cheap labor, even child labor, provides their most effective competitive edge, and they have had no qualms in taking this low-road strategy. They have become unwilling and, for the most part, incapable of upgrading technology and modernizing their production organization and improving the efficiency of their workforce. In contrast, the Chinese government is keen to promote and facilitate technological investment and automation, as Butollo describes in his chapter. By the time the Indians and Pakistanis realized their short-sightedness, they had already lost out to China in the soccer ball industry. Sometimes the Chinese state has also drawn on unconventional sources of vulnerable labor to reduce labor costs in this highly labor-intensive, competitive industry—prison labor, which generates much higher productivity than does child labor.

These four chapters on labor standards inform us that globalization is unquestionably a main driver to the bottom but that nations can, to a certain extent, adapt and react to the situation, and they do so in ways that vary depending on their capacity and willingness. In global terms, corporatist arrangements and industrial policies as practiced by China and Vietnam can sometimes arrest the

exploitation of their workforce, more than can be done in neoliberal states such as India and Pakistan. They try to maintain a balancing act. A "socialist" state like China, however, can also engage in a proliferation of precarious hiring practices in the state sector, as illustrated in Lin's chapter. States cannot be relied on to nurture and protect their workforce from being trampled on by international and local capital.

Trade Unions, NGOs, Collective Bargaining, and Labor Activism

In a comparative context, Chinese workers' conditions can be better or worse than others, subject to the choice of comparators. The empirical evidence presented in the final three chapters that make up part 3 suggests that a difficult road lies ahead.

That the ACFTU does not act as a trade union that represents workers' interests but as an arm of the party-state has been widely accepted by students of Chinese labor. Feng Chen, for instance, has seen the industrial relations system in China as a quadripartite system (of state, employer, trade union, and labor) rather than the usually described tripartite system (minus labor) in which the ACFTU is a fourth actor but with interests separate from those of workers.[12] Expectations are low that the ACFTU will ultimately become a genuine representative of labor. Yet there are also some reasons for optimism—labor NGOs (LNGOs) are taking up the challenge abandoned by the official government-run trade unions. In chapter 7 Chris King-chi Chan and Yu-bin Chiu demonstrate the possibilities. They document how workers and NGOs in Taiwan in the 1980s were able to ride the crest of a nationwide political movement that successfully turned a one-party corporatist political system into a multiparty democracy and in the process provided an opportunity for a one-party, state-controlled trade union system to turn into an autonomous trade union system. In both China today and Taiwan before the 1980s, LNGOs have emerged to provide workers with services and support that should have been the function of trade unions. The authors lay out in detail how Taiwanese LNGOs struggled under a corporatist political framework and how they overcame difficulties. They understood the importance of financial independence by relying on indigenous funding. They had the courage to turn to political agendas because they saw that labor's economic struggles were part of a broader political democratic struggle. In contrast, LNGOs in today's China are reliant on foreign financial support. They are also generally "depoliticitized," as pointed out by the authors, which restricts their activities to the space prescribed

by the law, and they do not organize across workplaces. The authors recognize that the political situation in Taiwan in the era of its political transition was more open than in the People's Republic of China today, but they still believe much can be learned from the Taiwanese LNGO experience.

This is an interesting possibility worth pursuing. Having worked with Chinese LNGOs, I am aware of the problems, but Chan and Chiu have pointed out a possible route to moving forward. Yet much also depends on Chinese workers' consciousness. Chinese workers are not as willing as the Vietnamese to stage strikes. A 2013 study by Feng Chen and Mengxiao Tang concludes that Chinese workers are still at a stage of legal rights–based protests given that their demands are simply for employers to comply with what is legally due them under China's labor laws. Interest-based demands that go beyond seeking legal compliance—for instance, to receive wages and conditions that are higher than the legal minimum—have only just emerged.[13] The massive strike of more than forty thousand migrant workers at an enormous Taiwanese footwear factory, Yue Yuen, in Guangdong Province in April 2014 is the biggest strike ever among Chinese workers at a foreign-funded factory. The strike began with a demand for employer contributions to workers' social insurance (not unpaid wages, which is more common), and this continued to be the core demand.[14] The almost two-week-long strike ended with fierce police suppression outside and inside the factory buildings, management intimidation, and damage to workers' morale and solidarity. Ultimately little was gained from the upheaval, and multinational buyers quickly shifted part of production either to poorer parts of China or to neighboring developing countries.[15] The most important demand, along with the size and length of the strike, indicate that migrant workers have notched up another step in rights awareness. A few weeks earlier, workers at a Walmart store drew international attention when they responded to an unannounced closing of the store by laying out compensation demands that went beyond what was legally due to them as a severance settlement. The workers demanded that Walmart double the amount of severance pay for each month of employment; compensate workers for expenses incurred from moving house and transferring children to nearby schools when taking up the job; and provide three times compensation for next year's Chinese New Year holiday leave that had not yet been taken.[16]

What role has the Chinese trade union played, and what can be revealed by examining the union from a comparative perspective? In the first decade of this century, there were a few instances when the ACFTU made some efforts to show it was reforming itself. The most surprising example was when the ACFTU secretly set up democratically elected workplace unions in 2006 at more than a dozen Walmart stores. But this democratic unionization effort lasted only about

two months.[17] Since then, trade union chairs have been appointed from among the stores' human resource managers or middle-ranking store supervisory staff.[18] Work conditions have degenerated to a level similar to that in US Walmart superstores, with fulltime workers being turned into part-timers to avoid the employer's contribution to social security and medical benefits; compensation barely above minimum wage; enforcement of "voluntary" overtime; and so on. The turnover rate of store workers is so high that newer workers have no knowledge of the once-promising incident of 2006.[19] Recently a few veteran store workers who had participated in the election of union branches in 2006 stepped forward with the support of LNGOs to protest deteriorating conditions, while the Shenzhen trade union and its lower-level unions stood on the sidelines or at best served as mediators. How organized and widespread are such actions is difficult to gauge, but this is the first sign that these older workers have the capacity to muster independent actions.[20]

Despite the failure of local trade unions to represent workers and protect their constituents' rights, the ACFTU has expressed interest in building up a workplace system of "collective consultation." When a foreign trade union engages in exchange visits or study tours, the ACFTU sometimes asks the foreign union delegates to run collective bargaining training sessions. This type of request, as far as I know, began in the mid-1990s when the Australian Ministry of Labour and the Chinese government agreed to a program that sent trainers to China from Australian unions to impart the Australian collective bargaining experience. Yet this kind of program did not help advance the state of Chinese collective consultation for almost two decades.

Since the Nanhai Honda strike in 2010, the ACFTU has shown renewed interest in setting up a collective consultation system with the express purpose of containing wildcat strikes. It is unclear how serious this interest is among union officials in various parts of China. Guangdong is the region that is best known as being proactively concerned with labor rights and the launching of new programs (despite the Shenzhen trade union's inaction during the Walmart workers' protests). Both the Guangdong Provincial Federation of Trade Unions (GDFTU) and the Guangzhou Federation of Trade Unions (GZFTU) have engaged foreign trade unions to run training sessions on collective bargaining. Lively details of these training sessions are documented by Katie Quan in chapter 8. Quan, a Berkeley academic, was formerly a union organizer and trainer. She conducted collective bargaining training sessions in Vietnam during the same time period as she was running similar sessions in Guangdong. In her chapter she compares the receptiveness of the two countries' union staffs to new ideas and their willingness and ability to conduct collective bargaining on behalf of workers.

Quan points out interesting differences in each country's national-level approach to collective bargaining and the differences between their trade union officials. The role-playing collective bargaining sessions that she conducted in Vietnam were boisterous and engaged, while in China they understood what they were supposed to do but were ineffectual in involving workers. These observations are revealing of the discernible difference between the two countries' local trade union officials. Vietnamese officials feel a sense of personal involvement in their representation of workers that seems to be lacking in Chinese trade union officials.

What could be the reason for this difference? Rank-and-file mobilization and escalating the stakes are normally seen as portending a strike. Does the absence of a stated right to strike in China inhibit Chinese trade unions from representing workers in earnest during such sessions? This is an argument I have heard several Chinese union officials and labor advocates make. Would the existence of such a right help? Going on strike is neither legal nor illegal in China, and a decision to strike is usually a last resort in a bargaining process. Given China's current situation, the legal protection of striking is not a deciding factor in whether workers strike. Vietnam's labor code permits strikes and contains protected strike clauses. Yet strikes in Vietnam have not been organized and/or led by workplace unions.[21] A strike law therefore does not determine whether or not a union will be willing to bargain for workers. The Vietnamese trade union officials' shouted demands during Quan's training sessions when acting out their collective bargaining roles had little to do with potential threats to initiate a strike. Normally their heated bargaining with management arises only *after* workers have gone out on strike on their own. Vietnamese workers have not depended on the unions to organize their strikes as mandated by the law, nor have workers considered the law to be of any relevance to their industrial actions—they do not even consider the consequences of violating the strike law. Neither do the authorities take the law seriously, because workers do not get arrested for violating the law when they launch wildcat strikes. In other words, the legal right to strike in Vietnam thus far has done little to instill in workers a mentality of legal compliance or of seeking trade union help to resolve grievances through collective bargaining or, from the authorities' point of view, of containing strikes.

Indeed, while laws granting a right to strike have been much heralded in democratic countries that have such laws, this does not mean that workers there can more readily go on strike. To demonstrate why this is the case, Sean Cooney and Thomas Nice in chapter 9 compare and analyze from a jurisprudential standpoint the situations in China and Australia. Australia is often seen as having relatively strong trade unions compared to, say, the United States. Cooney and Nice

use Australia as a comparator because for most of the twentieth century strikes were common but illegal in Australia. Only in the 1990s did Australia pass legislation providing a right to take "protected [strike] action." Yet the Workplace Relations Act of 1996 created a demarcation between protected industrial actions and those that are not.[22] Comparing the period before and after the enactment of the law, the authors show that the right to "protected action" has had the effect of reducing the scope of industrial actions in practice because of intervention by the government, but they also think "that the creation of a right to strike is an open-ended, fraught, and ambiguous process, not necessarily an unqualified benefit to workers."

Cooney and Nice use a roundabout means to show the possible problems that China may encounter if a law legalizing strikes were to be enacted. They show how the Australian law falters in protecting strikes by measuring it against the ILO's conventions, in respect to both jurisprudence and practice. When violations of the law are not penalized it is only because of the authorities' willingness to overlook the infringement. Sometimes common practice and political considerations prevail over legality. But such largesse can also easily be rescinded under elected governments that are antilabor.

The Vietnamese and Australian experiences can serve as a guide. In Vietnam the unions are weak, even if willing. In Australia the law was passed only after years of hard struggle by relatively strong trade unions. Even so, the law ended up restricting industrial actions in Australia, while such a law on strikes had no effect in Vietnam. Were such a law to be passed in China, therefore, it cannot be assumed that it would better enable workers to strike nor that the currently ineffectual official Chinese trade unions would be better able to bargain effectively for workers. In the last few years, there have been discussions among Chinese decision makers and labor-relations scholars as to whether there should be such a law. The policy-driven perspective is that a strike law might be able to regulate strikes, with grievances channeled into a collective bargaining system. The Chinese labor-advocacy perspective is that workers should enjoy the right to strike and the right to genuine collective bargaining. A strike law if enacted would possibly narrow this right, as described by Cooney and Nice, similar to how such a law works against labor in Australia. In a somewhat similar manner, the Vietnamese strike law makes the procedure for going on a protected strike so laborious that such a strike would be bound to fail. The labor advocates' conception of a strike law, in contrast, would include as little restriction and as much protection of strike actions as possible. Given the current situation in China, despite the ACFTU's past record of taking a pro-labor stance in the passage of labor laws, I am inclined to think that the law, if enacted, would not be to the advantage of labor.

For the time being, it seems that the Guangdong provincial government and trade union, more than institutions elsewhere, have debated this prospective law and seriously tried to learn more about collective bargaining. The central government has not put it on the national agenda for deliberation. Possibly it is wary that such a law could lead to more wildcat strikes rather than union-led regulated strikes. Even in Guangdong, reputed to be the most liberal province in China, labor protests are often suppressed and the protesters arrested. In 2014 twelve hospital security guards were charged with criminal offenses and jailed for peacefully protesting unfair severance compensation. Protesters have been jailed before, but formally charging them with committing a criminal offence is unprecedented.[23] This new development does not bode well for Chinese workers.

Is there a chance that the ACFTU will reform itself and act locally more on behalf of workers? Tim Pringle provides a prognosis in chapter 10 in which he compares labor and trade unions in contemporary Russia and China. Pringle's account shows how difficult it has been for the former official Soviet trade union, and even for the new alternative unions born after 1990, to become independent representatives of Russian workers. The Soviet official trade union, now renamed the Federation of Independent Trade Unions of Russia (FNPR), still has the largest membership and has opted for a "social partnership" with the state and capital. I would characterize this as a watered-down corporatist relationship. Union membership has shrunk, and the private sector is left largely unorganized, despite an environment that allows freedom of association and recognition of a right to strike. By no means is this a uniquely Russian problem. A subdued working class and trade unions are found across the postsocialist Eastern European countries,[24] including Poland, where Solidarity threw the first monkey wrench into the Communist-era authoritarian corporatist institutions. Worker agency initially flourished, but it quickly subsided with increasing political and economic freedom in the 1990s. The new alternative trade unions have faced difficulties in developing in this context. With workers not taking up the mantle, trade unions have remained relatively quiescent vis-à-vis the powers that be. As Pringle aptly observes about China, it is workers' agency that is the hope for change.

Will the Fate of Chinese Labor be Exceptional?

I hope that this book will convince readers that China is not exceptional and that there is much value in using a comparative perspective as an analytical tool. Many "Chinese characteristics" can also be found elsewhere. Chinese corporatism shares common features with other corporatist states. Chinese "socialism"

shares communalities with Vietnamese "socialism" and postsocialist capitalism. The Chinese trade union is controlled by the state, but this is by no means a unique phenomenon.

There are positive elements in Chinese industrial labor that should be recognized. The state is suppressive, but the Chinese labor laws in themselves are quite protective of labor interests. The Labor Contract Law, passed in 2007, had the purpose of resolving the growing problem of using temp-agency workers, but it had the unintended consequence of increasing the use of short-term flexible labor.[25] To plug loopholes in the law, an amendment was passed in 2013.[26] It is too early to tell whether the revised law has helped to contain or even reduce the use of temp-agency workers, but the central government and the ACFTU have tried to alleviate the problem. The annual substantial increases in the minimum wage in China for the past decade is also unusual compared with the situation in other Asian developing countries (except for Vietnam). As a further positive sign, in many developing countries workers in special economic zones are not allowed to belong to trade union branches, but in China special economic zones are not exempted from the labor laws. True, one can argue that it makes little difference whether Chinese workers in economic zones have the right to be unionized because the only legal trade union does not normally represent them. But there exists in China the *potential* for legal statutes already in place to yield positive effects. For instance, an increasing number of workers have been able to take employers to court and successfully enforce pay and work conditions that are specified by law, which had previously been widely ignored. One could dismiss all the relatively positive trends as motivated by an effort to pre-empt industrial upheaval. But, whatever the reason, increasingly, Chinese labor laws have produced positive consequences.

The Chinese authorities, eager to channel grievances through the legal system, publicize with great fanfare every time a new labor law has been passed during the past twenty years. They have printed the entire law on the front pages of newspapers and highlighted the amended articles of the laws; they have even run quiz shows on television to propagate the message. More and more workers have become aware of their legal rights, thanks in part to the LNGOs' years of patient work in spreading the details of labor laws. True, the NGOs' advice to workers to go to court to address grievances often has kept worker action within the confines of the legal system, rather than promoting other types of initiatives to improve their conditions. For instance, Chinese workers have yet to confront the government over increasing the minimum wage or to pass new statutes by going into the streets, as have Indonesian, Cambodian, and Bangladeshi workers. Still, each time Chinese workers, either individually or in small groups, have taken

an employer to court to enforce their legal rights or recoup unpaid wages it is a learning experience and a process of self-affirmation and development.

Starting in 2010, an increasing number of factory workers began to move toward engaging in strikes for higher wages and better conditions beyond what is stipulated by law. Several strikes have even called for democratic elections of workplace union branches. A well-publicized strike that made precisely these demands erupted at a large Honda parts plant in Guangzhou in 2010 and quickly spread to several other factories. Previously, strikes had largely confined themselves to protesting nonpayment of wages and the like. The new types of strike are still confined to a small minority of companies in a sea of many tens of thousands of Chinese factories; but Chinese industry appears to be in the throes of rapidly changing circumstances.

This chapter began with a discussion of Chinese exceptionalism and noted that the claims about the exceptionalism of China's labor force stem from its gargantuan size. Whether or not such a claim to exceptionalism has real merit, it is true that size can matter in terms of impact. In China, as noted, the Yue Yuen 2014 strike involved 48,000 workers. Not many places in the world have concentrations of such a massive workforce. Foxconn, a Taiwanese electronics company that produces for Apple, Dell, Nokia, and others is even bigger. It employs more than 200,000 workers at one of its factory compounds in Shenzhen and 200,000 more in another location in Shenzhen just an hour's drive away. Foxconn workers have started to become restive, engaging in several small strikes and stoppages, and Foxconn's executives have been openly worried. One wonders about the impact if one day these 400,000 Shenzhen Foxconn workers were to engage in an industrial action for higher pay and genuine representation and if this action then spread to the 1.3 million Foxconn workers across China. It would be an exceptionally large strike against one company to be sure, but the nature of the demands is not at all exceptional. They are commonplace around the world. To better understand the situation of Chinese workers today, and what the future holds, we need to place China in comparative perspective.

Part I

HISTORICAL AND STRUCTURAL DEVELOPMENTS

1

EXPORTING CORPORATISM?

German and Japanese Transnationals' Regimes of Production in China

Boy Lüthje

Both Germany and Japan have been referred to as potential models for Chinese labor-policy reform. In both countries, labor relations appear to be politically coordinated and socially sustainable, which seems to be more in line with China's socialist market economy than liberal market models. Such analysis is based on theories of corporatism in the tradition of Philippe Schmitter and of "varieties of capitalism" (VoC) under comparative institutionalist perspectives,[1] which depict Germany and Japan as major examples of "coordinated market economies" that represent alternatives to neoliberalism and more socially inclusive ways of capitalist restructuring.[2] In the face of the accelerated restructuring of global production and labor relations and the ongoing financial and economic crisis, however, there are reasons to doubt the viability of such concepts and their applicability to China.

First of all, German and Japanese labor relations are quite different from each other. Indeed, the Japanese model of lean and flexible work organizations with relatively weak trade unions has long been seen as a threat to corporatist centralized trade unions in Germany and other European countries. Second, basic forms of labor-management cooperation in Germany and Japan have been seriously undermined by globalization and the neoliberal restructuring of the world economy. Third, multinational corporations and their subcontractors tend to adapt to the variety of forms of labor relations in foreign countries, often exploiting the competition between nationally shaped systems of labor relations and social regulations. Finally, in the light of labor conflicts in China, especially

the wave of strikes in the automobile sector in the south in 2010, the labor systems of German and Japanese companies operating joint ventures (JVs) in China seem to have produced very different outcomes. Notably, most of the strikes occurred in Japanese-owned or co-owned companies or their suppliers, such as Honda or Denso, while German multinationals and their suppliers did not experience comparable labor troubles.

Against this background and using Japan as a comparator, I would like to take a closer look at the production regimes of leading German multinationals in China and discuss whether and how German-style corporatist labor practices have been transplanted into the Chinese context and what specific trajectories of conflict and social development are arising. I begin with an examination of the concept of "corporatism." In the second and third sections, I look at the German postwar social contract and its differences from that of Japan and the former's transformation in the context of globalization. I then analyze the production regimes of some flagship German companies in the Chinese context. I conclude the chapter with a comparative look at production regimes of German and Japanese automobile companies and some lessons regarding the growing labor unrest and reforms of labor policies in China.

"German," "Japanese," and "Chinese" Labor Relations Models

The notion of VoC has become a point of reference in theories of political economy, industrial organization, innovation, labor relations, and related fields that study the various patterns and pathways of economic, social, and political regulation in capitalist societies, bound together and competing against one another in the world market.[3] A common theme has been the difference between "market-liberal" types of capitalism, such as those of the United States and Great Britain, and "coordinated market economies," such as those of western Europe and Japan.[4] The latter are particularly characterized by corporatist labor relations regimes—that is, tripartite cooperation between capital, labor, and government in many different forms and at various levels—from company, industry, or regional to national or supranational (e.g., the European Union).

Literature on China's economy and its rebalancing in the wake of the global economic crisis has referred to the VoC approach,[5] which goes beyond traditional views of transformation from "plan" to "market." A more profound sociological understanding of this phenomenon is that the transformation of formerly planned economies in Eastern Europe, the Soviet Union, and China has actually not resulted in the establishment of "pure" market economies. Instead, complex

recombinations of property relations have taken place,[6] in which various forms of private capital (national and multinational), state-owned enterprises (SOEs), collective-owned enterprises, as well as "hybrid" types of property (e.g., management buyouts of former SOEs) have created new sets of social relations under the capitalist market.[7] As Polanyi, Weber, and Marx explained, capitalism is always embedded in complex sets of social relations and institutions that modify the specific functioning of the market, capital accumulation, and social control.

The VoC approach has played an important, if not explicit, role in the literature on Chinese labor relations. Chinese and Western analysts alike refer to theories of neocorporatism, as laid out in Schmitter's now classic 1974 article.[8] China is seen as a developmental state akin to the key industrial economies of East Asia, including Japan, Taiwan, and South Korea, which are run in a markedly different manner from Anglo-American market liberalism but display some similarities with more state-dominated systems in western Europe. Post-Mao China has been described as a model of state-corporatism,[9] as opposed to the more liberal or "societal" forms of corporatism prevalent in its genuinely capitalist Asian counterparts. Hopes have been expressed that China's economic transformation will be accompanied by a transition from state to societal corporatism that is built on the institutionalization of basic property and social rights as well as some forms of collective representation for the working population under market conditions. Corporatist relationships in China are particularly embedded in the system of workers' representation in SOEs, the staff and workers congress, and enterprise unions; sectors governed by such relations are characterized as the core of China's industrial system.[10]

Institutionalist theories of corporatism, however, have often been criticized for their functionalism and their inability to make sense of the complex dynamics between politics and economics and the underlying power relationships between social classes and movements in modern capitalist societies.[11] Similarly, the static juxtaposition of market-liberal and coordinated capitalisms has been questioned. This approach draws the line between two opposing camps in world capitalism but does not leave much room for understanding institutional changes under accelerated globalization. In the wake of the world financial and economic crisis of 2008–9, some authors are returning to basic questions about capitalism and its limited ability to regulate social relations, rather than comparing the advantages and disadvantages of various forms of capitalism.[12]

In a remarkable book on the postwar industrial systems of the United States, Germany, and Japan, Gary Herrigel has shown how new forms of capitalist organization in industries, firms, and workplaces have been created by strategic actors after recombining the advantages and disadvantages of national systems of innovation and socioeconomic regulation.[13] The resulting trajectories fit neither

neoliberalism nor coordinated market economies. They represent instead a variety of institutional settings and the contingencies of social and economic conflicts over the future path of capitalist development. Such perspectives seem particularly relevant for China, given that the country's relatively successful social transformation involves ongoing experimentation with and building of new social and political institutions that could regulate the manifold contradictions of the country's new capitalist order.[14]

Much of the present debate mirrors the criticism made by neo-Marxists in Europe and North America during the 1980s who adopted the corporatism paradigm in critical ways and integrated it into Marxist conceptions of political economy, the state, and labor relations. Theorists such as Leo Panitch, Bob Jessop, and Joachim Hirsch extensively criticized the static character of mainstream institutionalist theories of the state, insisting on the capitalist state's character as a social relation and as a "condensation" of complex configurations of power within market-based formations of society.[15] In other words, the state has limited ability to "steer" competition and relations of production. The conflicting imperatives of "economics" and "politics" between state and civil society are evident. In the field of labor relations, such an approach can help us understand why in modern capitalist societies certain functions of social and political control are delegated from the state to workers' or employers' associations.[16]

In Germany, several researchers, notably Josef Esser,[17] developed a complex analysis of trade unions as part of a "corporatist bloc" comprising the world market–oriented core groups of German industrial capital and workers' representatives in their respective corporations and sectors. Referring to Poulantzas and Gramsci, tripartite coalitions of the management of large corporations, trade unions, and government were analyzed by Esser and other researchers as the hegemonic core of German capitalism.[18] These coalitions define the political discourse on key economic and social issues, secure the stability of the German economy in times of crisis and accelerated restructuring, and fight the demands of new social movements that question the ecological and social virtues of world market–oriented modernization. Corporatism, however, becomes increasingly selective because deals between unions and employers on downsizing and restructuring secure the interests of core workers but leave out the majority of less-skilled workers, the unemployed, migrant workers, and women.[19]

Such approaches effectively shifted the terrain of theoretical analysis. No longer could the integrity of the basic institutional actors in labor relations such as trade unions, works councils, or employers' organizations and their respective coalitions be taken for granted. Rather, the focus had to be directed to the question of how these institutions are reproduced in the context of complex class relationships and through social conflicts, movements, and intraorganizational

contests. Therefore, the social content of corporatist arrangements and deals between collective actors and their workings, rather than the structure of institutions, became the key subject of interest. The postwar social contract in many capitalist countries could be analyzed as a set of trade-offs between "big business" and "big labor," in which workers would relinquish political power and control on the shop floor in exchange for institutionally guaranteed participation in economic growth and productivity increases and organizational stability of trade unions.[20]

From this perspective, the labor process would remain a central terrain of contest and consent. Although highly regulated and controlled by bureaucratic rules of management and workplace representation, corporatist regulation of labor relations would continuously have to be reproduced through day-to-day workplace conflicts, in the form of both individual contests and collective struggles. These conflicts would not only be over material benefits and control as such but also over the rules of contest and consent at the workplace and in society. Any formal or informal deal between management and workers would also entail the implicit or explicit confirmation of the "rules of the game," as Michael Burawoy has extensively analyzed in his concept of the "politics of production."[21]

Foundations of Corporatist Labor Relations in Germany

In Germany, the rules of consent and contest as well as the basic trade-offs between trade unions and capital under corporatist labor relations are embedded in a complex system of workplace and other institutions. The works councils, mandated by law and elected by all workers in a given workplace (whether union members or not), are the basic shop-floor institutions. Industry-wide collective bargaining between trade unions and employers' associations are the major supraworkplace institutions. In addition, industrial trade unions are represented on the board of directors of major corporations (although de facto in a minority position) and in scores of government agencies with tripartite governance, such as in the labor market administration, professional education, welfare, health care, and social insurance. Due to the two-tiered structure of workers' representation on the shop floor and in collective bargaining, the German system is often referred to as a "dual system of interest representation."

The nucleus of labor-management cooperation is on the shop floor. It is embedded in the works council system, which dates back to the Works Council Law (Betriebsrätegesetz) of 1920. Works councils were introduced by a Social Democratic national government as an alternative to workers' councils, which had led

much of the revolutionary activities of the German working class following the breakdown of the Prussian-German monarchy after its military defeat in World War I. Workers' councils were organs of direct workers' control and democracy in factories and communities similar to the soviets of the Russian Revolution in 1905 and 1917, whereas works councils were introduced as a model of non-revolutionary class cooperation based on elections of workers' representatives at the factory level. The Works Council Law of 1920 created an extensive system of workplace representation that was quite advanced for its time. Its main purpose, however, was to limit collective action of workers on the shop floor and to guarantee management prerogative over day-to-day workplace decisions.[22]

The works council system, therefore, was criticized by class-conscious workers and most of the radical left organizations—that is, the Communists and left-wing socialists.[23] The Communist Party (Kommunistische Partei Deutschlands, KPD) and the Independent Socialist Party (Unabhängige Sozialdemokratische Partei Deutschlands, USPD) waged mass demonstrations against the ratification of the law by parliament, during which forty-two workers were killed by the police, and President Friedrich Ebert, a member of the Social Democratic Party (Sozialdemokratische Partei Deutschlands, SPD) had to declare a state of emergency. Reflecting on these earlier criticisms, radical Marxists in the 1970s aptly characterized the German works council system as the archetypal form of modern class compromise, which after World War II governed the "social contracts" between capital and labor, including the underlying acceptance of management prerogative on the shop floor by major trade unions.[24]

In the immediate post–World War II years, the works council system was reinstated in West Germany under the auspices of the military government of the United States and its allies. Labor relations, however, were essentially modified by the introduction of politically "unitary" trade unions that integrated (or sometimes excluded) the competing political tendencies in the labor movement under the de facto hegemony of the Social Democrats. This structure paved the way for the emergence of industrial unions and industry-wide bargaining, which during the 1920s had remained fragmented because of the political conflicts between Communist, Socialist, Social Democratic, and Catholic labor organizations and the existence of a significant sector of crafts-type trade unions. In addition, co-determination at the workplace was extended to the corporate boardroom through the installation of workers' representatives on the supervisory boards of major companies—initially in the iron-and-steel industry and in mining, and in the 1970s, after a series of law reforms under Social Democratic governments, in every major corporation with stockholder ownership.[25]

Much of the postwar West German industrial relations system mirrored the practices of what was called the "postwar social contract" in major mass

production industries in the United States. The basic parameters of labor relations in those industries involved a deal between trade unions and capital: unions would guarantee conflict-free production on the shop floor and in return workers would receive regular wage increases in line with productivity growth under stable collective bargaining relations.[26] This form of social trade-off, which was historically ratified by the famous 1950 bargaining agreement between the United Auto Workers and General Motors in the United States (also known as the "treaty of Detroit"), was extensively discussed in Germany during the 1950s, propagated with help from the AFL-CIO's foreign policy operations.[27]

The two countries' industrial relations institutions, however, remained quite different. In the United States, both industrial wage standards and shop floor–related issues, wage classifications and work rules in particular, were fixed in extensive collective bargaining agreements (which sometimes assumed the volume of phone books), company by company.[28] The agreements at the largest companies set the pattern for the respective industries ("pattern bargaining").

In West Germany the regulation of wages remained embedded in the dual system of interest representation. The Works Council Law (also in its postwar form) explicitly denied works councils the right to lead strikes. Their task would be to deal with day-to-day conflicts at the workplace. Collective bargaining was conducted at the level of entire industries between highly centralized trade unions and employers' associations. Works councils functioned as a transmission belt for the reimplementation of bargained wage standards into the context of individual factories, especially by overseeing the compatibility of company wage systems with the general collective agreements.[29]

It should be noted, however, that bargaining in postwar Germany remained largely free from state intervention. This was in line with the US model of unions as "nonpolitical" organizations and collective bargaining as a voluntary process between the respective actors in the economy—that is, trade unions and employers.[30]

The dual structure of interest representation in West Germany also marked a basic contrast with the Japanese system. Under postwar US occupation, similar principles of democratic workplace representation, collective bargaining, and trade union independence from government interference were set as guiding norms for the reconstruction of industrial relations in both countries. Japanese unions, however, never achieved industry-wide bargaining.[31] In the 1950s, massive conflicts occurred over this issue, as left-wing labor organizations pushed for the unification of bargaining regimes and trade union organizations at industry level. This movement ran into massive resistance from employers and the government, which was waged as a political struggle against growing socialist and Communist influence in trade unions. Labor lost out, and collective bargaining relations remained confined to company-based trade unions.[32]

Corporatism in Germany: From Crisis to Revival?

In the late 1970s and the early 1980s the West German industrial relations system enjoyed international model status, especially among liberal scholars in the Anglo-American world.[33] The reputation of "Model Germany" (an SPD electoral slogan in 1976) mainly resulted from the relatively successful restructuring of Germany's world market–oriented core industries in the wake of the global economic recession of the mid-1970s and the subsequent tightening of competitive conditions in the capitalist world economy. Although plant closures, downsizing, and long-term unemployment became a reality in West Germany after 1974, the leading producers in the steel, automobile, chemical, engineering, and electrical industries continued to gain strength, based on portfolios of high-quality industrial goods that were suited to rationalized industrial production and that catered to middle-class and upper-class consumers around the world.[34]

Labor peace was a particular benefit of the dual system of interest representation. Whereas most industrialized countries experienced massive strikes during the end of the postwar boom from the late 1960s until around 1980, West Germany (together with Japan) enjoyed remarkably low rates of strike activity and shop-floor action. Because collective bargaining and related labor conflicts remained distant from the shop floor, the impact of new technologies, reorganization of jobs, and relocation or closure of production facilities could mostly be negotiated in nonconflictual ways between management and the works councils. Although downsizing later led to massive mobilizations in industries such as steel, shipbuilding, and electrical manufacturing, industrial action remained the exception. The norm was individualized counseling of workers through works councils and an absence of industrial action over workplace issues. The legal limitations on works councils to lead strikes made it difficult for rank-and-file workers to mobilize on the shop floor.[35]

The flexibility provided by this system is also a major reason that the impact of various Japanese models of workplace organization remained limited in Germany. In the United States "lean manufacturing" and "teamwork" of Japanese origin were widely adopted in the 1980s in order to break up union power at the workplace; these concepts are designed to break the complicated and highly bureaucratic rules of seniority, job classifications, and pay scales, in which union power was embedded.[36] In Germany, employers were apt to use the "Japanese threat" at the bargaining table to resist making wage increases and reductions of working hours. The restructuring of workplaces and jobs in Germany, however, followed a pattern decisively distinct from that in the United States. German employers were well aware that Japanese-style labor-management cooperation was based on the promise of lifelong employment to workers in first-tier companies and that the workers would have to accept

long working hours, enhanced flexibility at the workplace, and submission of their personal lives to the company. German managers instead resorted to strategies of radically reducing low-skilled manufacturing work and upgrading the performance and knowledge of the higher-skilled parts of the workforce; in this they were assisted by downsizing policies that primarily eliminated older workers with high seniority and kept the younger ones.[37]

In spite of its apparent success in securing international competitiveness in times of crisis, the German industrial relations system underwent three significant changes during the 1980s.

First, unions and works councils increasingly resorted to tripartite deals in which employers and government agencies eased the impact of large-scale downsizing. This tendency became particularly visible in the steel and coal industries, where scores of steel mills and mines were downsized with the consent of works councils and unions. Typically, local or federal government agencies, the labor market administration in particular, provided extensive schemes of retraining or temporary employment for laid-off workers, especially older ones. Government involvement in factory and company labor relations has become widespread since the 1980s in a trend that is referred to by political scientists as "neocorporatism."[38]

Second, corporatist deal making increasingly was at the expense of what was called "peripheral workers"— that is, the less skilled, many of whom were women, older workers, and immigrant workers from southern Europe and Turkey. Works councils tended to secure the interests of core workforces of relatively skilled and higher-paid workers. Lower-skilled workers usually were the first to be laid off when workplaces downsized. This pattern reinforced the exclusion of such groups from the labor market and also affected younger workers disadvantaged by Germany's highly class-biased and socially selective system of secondary school education.[39]

Third, the growing importance of company-based restructuring negotiations weakened industry-wide collective agreements. Major industrial unions increasingly had to grant "opening clauses" beginning in the mid-1980s in industry-wide collective contracts, which allowed company-specific exceptions from the general patterns of wages and working hours, especially in times of economic hardship.[40] In many cases they represent the German version of what is called "concessionary bargaining."

These changes set the stage for the accelerated erosion of trade unionism in Germany in the 1990s. Much of this was driven by the dramatic economic and social changes resulting from German reunification. The abrupt inclusion of the former German Democratic Republic into the West German economy, which happened with almost no safeguards for jobs in East Germany, produced substantial sectors in which neither trade unions nor works councils had a

significant presence. The lifting of the "iron curtain" also provided German companies (including smaller and medium-sized ones) with a host of new options, including to relocate production to low-wage areas in the former GDR with relatively skilled workforces or to hire from the large pool of new immigrant workers from Eastern Europe and the former Soviet Union. The growing spectrum of nonunion options in labor relations caused a growing defection of companies from employers' associations, which weakened the latter's bargaining power and left trade unions with massive difficulties when trying to secure collectively bargained labor standards even in unionized companies.[41]

During this period, the basic foundations of corporatist labor relations in Germany became subject to massive public criticism by neoliberal economists.[42] Antiunionist pundits pointed to the virtues of market-liberal competition embodied in the model of the so-called new economy in the United States. At the same time, lean production schemes were widely introduced in the corporate sector, sometimes by using weakly unionized factories in eastern Germany as testing grounds (such as the new General Motors facility in Eisenach, which became the model plant for lean production in GM's European subsidiary, Opel). This trend reflected the growing dominance of American-style "shareholder value capitalism," in which Germany's financial sector massively participated. As a result, the historically stable relationships between German industrial corporations and banks became increasingly jeopardized, and shareholder demands for short-term profit maximization came to dominate over traditional long-term strategies of investment in research, technologies, and skilled workforces.[43]

It should be noted, however, that the ideological offensive of the 1990s did not result in a full-scale attack on the foundations of the postwar industrial relations system, as happened in the United States and Great Britain. In Germany, the lowering of established shop-floor labor standards and the introduction of new schemes of lean management and concessionary bargaining mostly happened through the established institutions. Employers' strategies targeted works councils to accept concessions on wages, working hours, and other working conditions, playing off workers in different workplaces against one another and undermining the role of the unions. The traditional role of works councils and their legal obligation to cooperate with management proved a solid foundation for such policies, but the institutional logic of the dual system of interest representation was turned upside down. Concessionary bargaining at the shop-floor level increasingly set the standards for collective bargaining at the industry level, quite the opposite from the postwar years of economic growth and union bargaining power.[44]

This new pattern was reinforced during the financial and economic crisis of 2008–9. The crash of shareholder value capitalism, however, caused a certain

reversal in public opinion. The German economy's relatively successful recovery after 2009 seemed to prove the virtues of Model Germany and the country's leading position as an exporter of industrial goods so that today it benefits from rapidly growing demand from major emerging economies, China in particular. This reversal of public opinion included praise for unions and their restraint at the bargaining table in recent years, which was seen as a major contribution to the performance of the German economy.[45]

The reinvigoration of 1980s-style corporatism seems limited, however. Although major unions such as IG Metall (Industrial Union of Metalworkers) won representation on the corporate boards of notorious antiunion employers (such as Conti-Schäffler, a new global giant in the automotive supply industry), and the government's short-time work programs administered by works councils and companies helped to keep unemployment low during the immediate crisis, the weakness of the trade unions in industry-wide bargaining and the concessionary practices of more and more works councils have by no means changed. Moreover, the unions missed out on opportunities during the crisis to urge nationalization of bankrupt industrial companies and to strive for sectoral networks of publicly controlled companies as a backbone for consolidation of overcapacities and socially desirable production. Both the auto industry and the information electronics industry provide examples.[46]

Some researchers, therefore, see a major transformation from the trade unions' traditional role as "intermediary organizations" to networks of works council–based, strictly business-oriented lobbying organizations for a few core employees in relatively well-to-do first-tier companies. In this scenario, the basic institutional structure of the dual system of interest representation would remain intact but works councils acting as "comanagers" of competitive companies would completely dominate trade unions.[47] Whatever the political conclusions, there is general agreement that the marriage between high-performance labor regimes and traditional social partnership at the company level has been the dominant trend in German labor relations since the 1990s, bringing Model Germany much closer to its foremost challenger of the 1980s, Japan.

Failed Tripartism: Chinese Corporatism in the Era of Market Socialism

Have German multinational companies exported German-style corporatist labor relations or important elements of it to China? Following the VoC approach, an answer to this question first requires an inspection of the Chinese labor relations system. Such an institutional perspective has to be linked to a dynamic

analysis of China's capitalist development, the emerging forms of organization in terms of production models and management control, the composition of the workforce and its cleavages, as well as the social movements of "old" and "new" segments of the working class.

The institutional context is described by two fundamental factors. One is the failed attempt by Chinese policymakers to introduce tripartite mechanisms of consultation among government, trade unions, and employer organizations as an institutional framework to regulate basic labor standards such as minimum wages, wage standards and guidelines, occupational safety and health standards, and social insurance. Tripartite consultation remains largely formalistic. Legal rules and norms are subject to "flexible interpretations" by local governments and labor bureaus, and there are no mechanisms of democratic participation for workers in workplace decision making.[48]

The second factor is the structure of collective actors in labor relations, in which these entities remain confined to their traditional role as de facto state agencies and cannot act as representatives of group or class interests in the basic sense of industrial relations theories. Trade unions lack basic democratic legitimacy among the working population. Employers prefer to link up directly with state agencies and the Communist Party, rather than building associations or interest groups that have some independence from the state. Industry associations in China are essentially government organizations, too. The lack of civic organizations of group interests has resulted in increasingly unstable labor relations and a growing rate of individual and collective labor conflicts. In this system of incomplete or failed tripartism, workers are left with no representation. Workers, however, appear as a "fourth party" at large that is sometimes uncontrollable and that exerts considerable moral or political pressure on state agencies by individuals or groups of individuals taking action through lawsuits, strikes, protests, and petitions.[49]

Under China's rapid capitalist transformation, labor relations have become massively fragmented along various regimes of production at the company level. This process has been driven by the introduction of all kinds of Western, East Asian, or genuinely Chinese systems of greater workplace flexibility and high-performance management in key sectors of the export economy. Based on extensive empirical research that I and others conducted between 2008 and 2011 we can determine five generic types of production regimes among the major manufacturing companies.[50]

STATE BUREAUCRATIC

The most common regime results from the transformation of SOEs under capitalist market and management imperatives. This can be called "state bureaucratic." It is characterized by relatively stable conditions of production (after often

massive restructuring during privatization), medium or highly skilled core workforces, and distinctively "Chinese" pay systems with relatively low base wages and many workplace and personal allowances, which often make up 50 percent or more of a worker's regular personal income. Labor relations are characterized by a rather strict obedience to labor laws and government regulations and a stable, politically accepted bureaucratic position for the trade union coupled with Chinese-style "comanagement" through the staff and workers congress.

CORPORATE BUREAUCRATIC

A second type can be called "corporate bureaucratic." It is typically found in large Sino-foreign JVs in which the Chinese side is normally state owned. It bears many similarities to the state-bureaucratic type but is distinctively shaped by the management and work systems of multinational corporations. These companies often pay the highest wages and salaries in their regions, and their workforces consist almost exclusively of urban workers. Wage and incentive systems are similar to those of Western multinationals during the period of Fordism, which is characterized by relatively high base wages (70–80% of the regular personal income), regulated working hours, and long-term career patterns related to extensive workforce skilling and education. Trade unions usually have a relatively secure position and are co-opted into factory management, but collective bargaining remains weak.

CORPORATE HIGH PERFORMANCE

Production regimes in multinational corporations shaped by newer Western, especially American, "philosophies" of high-performance management ("corporate high performance") are in many respects similar to the more traditional multinationals, especially with regard to the type of workforce, but there is a much stronger performance orientation in workforce selection, work organization, and career patterns as well as high employment flexibility. Fixed base wages and salaries contribute to not more than one-half of regular incomes, with a high proportion of bonuses and performance-based pay making up the rest. Trade unions are weak or do not exist at all, and discontent among highly skilled workers increasingly ends in labor-management conflicts. Such regimes of production typically exist in US or European electronics multinationals, but they are also present among the new Chinese high-tech multinationals such as Huawei or Korean and Taiwanese first-tier corporations such as Samsung or TSMC.

FLEXIBILIZED MASS PRODUCTION

An extreme type of high-performance management emerged among the large contract manufacturers of advanced electronics and other industrial products,

where modern manufacturing technologies and organization are combined with large-scale exploitation of low-paid rural migrant workers. Work organization in regimes of "flexibilized mass production" is dominated by massive segmentation and flexibilization of employment ("neo-Taylorism") and is often connected with housing workers in factory dormitories. Extremely long working hours are prevalent, often in violation of existing legal standards, driven by very low base wages that are usually around local legal minimum wages. There is a wide wage gap between line workers and technicians, and managers and engineers. Trade unions usually have no presence in such factories, with the exception of management-dominated employee representations set up in response to recent changes in labor laws. Such regimes of production can typically be found in American or Taiwanese contract manufacturers and component providers in the electronics industry, such as Flextronics or Foxconn, or some Chinese first-tier consumer goods manufacturers, but they are also found in automotive suppliers, such as Honda's plant in Nanhai, where the strike wave in 2010 originated.

LOW-WAGE CLASSIC

Production in poorly equipped factories with low levels of organization ("low-wage classic") represents the bottom end of the hierarchy of regimes of production in major manufacturing sectors. The low-wage classic mirrors traditional divisions of labor between industrialized and developing countries and its modern manifestations in the supply chains of global retailers such as Walmart, which have shaped large segments of Chinese export manufacturing.

As in the previous category, the workers are mostly rural migrants, who are often housed in factory dormitories; control and methods of exploitation are simple, direct, and based on authoritarian supervision. Base wages hover close to the legal minimum, while extensive overtime is the rule as well as a matter of economic survival for most workers. Piece-work systems are widely applied (especially in the garment industry), inducing speedup and often undermining legal minimum wages. Trade unions are mostly absent from such workplaces, while individual and collective labor conflicts are relatively frequent. Such regimes of production are widespread in light-industrial manufacturing, such as the making of garments, shoes, toys, and other consumer goods, as well as among suppliers of electronics and automotive parts. The main difference from regimes of flexible mass production is in the absence of scientific methods of control over the work process, the low levels of technology and capital intensity, and the economic instability of companies. Under such conditions, family paternalism is a widespread mode of control and social integration.

Exporting Social Partnership? German Companies in China

How do German companies fit into this picture? Given their strong corporatist traditions, one might assume that their regimes of production would primarily be of the corporate-bureaucratic type. In fact, this is true for large Sino-German JVs in industries such as automotive assembly, petrochemicals, and specialized steel. In those usually large companies and factories, the production model and product technologies are designed and managed by the foreign partner, whereas the Chinese are in charge of human resources. Hence, the production regimes of these JVs (with German as well as other foreign partners) are a mix of foreign production models and Chinese management practices, which are often incoherent and subject to turf wars between both parties. The defining elements of these regimes are relatively high wages, above-average proportions of fixed incomes for core workers, and relatively stable employment for the mostly urban workforces. These practices can also be found in some German direct-invested companies, such as tier-one automotive supply, engineering and machine building, or medical and industrial electronics.[51]

But German investment in China is extensive and highly diverse. The database of the German Chamber of Commerce in China lists about 4,500 outlets of German companies in the country, covering all sectors of industries, services, and finance.[52] In the manufacturing sector, basically three categories can be distinguished by size, scope, and legal status: flagship multinationals in JVs, foreign-invested enterprises (FIEs) as subsidiaries of large multinationals, and small and medium-size FIEs. Joint ventures prevail in basic manufacturing, such as the chemical industry, heavy machinery, transportation equipment, specialized steel manufacturing, and in auto and truck assembly. Foreign subsidiaries of large corporations are heavily represented in the chemical industry and related areas, such as dye and pharmaceutical manufacturing, in the electrical and electronics industry (including chip manufacturing), in the upper tiers of the automotive supply industries, and in industrial machinery. Subsidiaries of small and medium-size companies can be found in almost every area of industrial manufacturing. Many of these were drawn to China as suppliers to major multinationals.[53]

Despite the variations, labor relations of German companies in China generally appear to be relatively peaceful. German multinationals enjoy a reputation as desirable employers in China. Most German companies respect Chinese labor laws, and the implementation of the Labor Contract Law of 2008 has not been an issue in most German companies, at least not the larger ones. With a few exceptions, the number of labor conflicts has remained relatively low. German corporations have not figured as prominent targets on the ACFTU's list of

Fortune 500 companies to be organized. There is general agreement among German companies that demonstrations of antiunion attitudes, such as in the highly publicized case of Walmart a few years ago, are imprudent and damaging to business. German companies extensively engage in "corporate social responsibility" schemes, both at company level and in relationships with suppliers. In addition, German unions have increasingly taken a friendly interest in China, especially in the subsidiaries of major German multinationals.[54]

But the corporate-bureaucratic model can no longer be seen as the dominant paradigm of industrial relations among German companies in China. In many industries, automobile production in particular, outsourcing, modular production, and the increasing use of temporary labor is putting pressure on labor standards for established core workforces in flagship JVs, in some ways similar to the situation during the 1980s and 1990s in Germany. German multinationals of all sizes have adopted American-style corporate high-performance models of work organization and labor relations in their global operations and have often implemented those models from scratch in their Chinese operations. Typical examples are German FIEs in automotive supply, household appliances, consumer electronics, and telecommunications equipment manufacturing as well as in smaller specialized companies in the chemical industry.[55]

Flexible mass production, perhaps currently the most typical "Chinese" regime of production, can hardly be found in German companies. This is the domain of large-scale contract manufacturers from Taiwan, Hong Kong, and the United States. There are, however, German companies at the lowest end of Chinese production politics—the classic low-wage regimes. Numerous German small and medium ("Mittelstand") companies and their suppliers that we have investigated clearly fit this description. This is particularly true for electronics manufacturing, where some German-owned suppliers of low-end components such as cables, connectors, or battery chargers exist, especially in southern China.[56] A most prominent example is Friwo, a former subsidiary of the German Quandt holding group, which gained publicity through a highly confrontational strike in its two factories of almost twenty thousand workers in Shenzhen in 2007.[57] Also, some German first-tier providers in the electrical and electronics industry cooperate with Chinese companies that clearly fit the low-wage classic model.[58]

Under these conditions, the prospect of the German model of labor relations becoming another successful export product in China remains limited. Obviously, the missing key is in the almost complete lack of collective bargaining relations and the weakness of the respective collective actors. As discussed, Germany's corporatism crucially depends on strong and relatively centralized organizations of workers and employers with a high degree of independence from the state and

from each other. In China, this functional separation of state and civil society in the very core of labor-capital relations has not yet taken place. The lack of such collective actors explains not only the weakness of hegemonic labor regimes such as that of China but also why the basic trade-off between shop-floor control and socioeconomic stability underlying Fordist social contracts in most developed economies does not work in China, where trade unions have no say—and say nothing—about working conditions or shop-floor issues. German multinationals, therefore, cannot rely on their own established mechanisms to keep conflicts over working conditions away from the shop floor via centralized bargaining relations between trade unions and employers at industry level.[59]

Good Guys vs. Bad Guys? German and Japanese Multinationals in the Chinese Auto Industry

Given this background, one can ask why production regimes of German and Japanese companies of similar type in China produce different outcomes in terms of social stability and industrial harmony. This question seems particularly relevant for the auto industry, where a series of wage strikes of unprecedented magnitude hit the supplier networks of Japanese automotive manufacturers in southern China in the summer of 2010. German carmakers and their suppliers in China have not experienced similar labor conflicts, although some of their JVs have been involved in massive restructuring of SOEs with thousands of layoffs on the part of their Chinese JV partners. The media often point to the unresolved historical antagonisms between Japan and China as a major reason for these strikes in Sino-Japanese companies. A detailed empirical comparison between the production regimes and supplier networks of German and Japanese companies, however, shows that their different ways of implementing production models in the Chinese context and the resulting configurations of production regimes along the supplier pyramids of the car industry are perhaps better explanations for stable or unstable industrial relations.[60]

The production models of major German carmakers in China reflect the gradual but comprehensive adaptation of lean-production practices.[61] They also enjoy a history as the preferred foreign JV partners in the early stages of China's reform and opening in the 1980s—a time when Fordist models of production still dominated the automobile industry in the West. In contrast, Japanese companies entered the Chinese market at a relatively late stage (the mid-1990s) and thus were able to build their company-specific systems of lean production from scratch in large greenfield sites surrounded by newly built reliable supplier plants and networks, replicating their home-grown models. They also could hire mostly young workers without being burdened with older employees with

work habits developed working for state-owned companies. In the JVs with German partners, which did not bring (and historically do not have) their "own" company-controlled supplier networks, more emphasis is given to automation as a strategy of rationalization. At the same time, there is massive pressure to raise efficiency through large-scale outsourcing, mostly in partnership with European and American multinational first-tier suppliers.

It should be noted that both German and Japanese JVs are similar in many ways in terms of working conditions and employment policies. Wages, salaries, and benefits in both types of JV are rather high, at least compared to existing local standards. Although the absolute wage levels vary considerably by location, the workforces in these companies enjoy a relatively secure and stable employment, accompanied often by generous leisure facilities. In particular, those working at these Japanese and German JVs are seen as belonging to young local "workers aristocracies," given that only those with secure *hukou* household registration status in the cities are employed. This picture is changing, however, with the increased use of low-wage temporary workers in production, the large-scale restructuring of already modern factories and product portfolios, and modular production. These trends may threaten the status of the core workers, particularly because a large proportion of the workforce is drawn from temporary labor agencies, while most of the workers at automotive suppliers are rural migrant workers.

There are, indeed, substantial differences between JVs with German and Japanese partners with regard to recruitment and skills development. Whereas German companies have tried to implement their home-grown style of vocational training that is based on extensive education in technical colleges and schools, Japanese companies rely on the recruitment of fresh graduates from technical schools followed by extensive in-house training, company internal job rotation, and long-term career prospects linked to further company training. The skilled trades— that is, maintenance workers and technical specialists—in these companies are also mostly recruited in-house, often from the ranks of assembly-line operators. The more formalized and externalized forms of skills training preferred by Sino-German joint companies seem to promote a broader skills base for individual workers, but it also creates more career constraints, given that Sino-German companies tend to recruit their higher-skilled workers from external labor markets. This externally oriented workforce-development strategy, following the German model of "dual" professional education in companies and public technical schools, is particularly vulnerable to the often-extreme competition for skilled workers in China's metropolitan growth regions, also because line workers are becoming potentially overskilled for assembly work. This situation becomes particularly evident during company restructuring and production

slowdowns, when highly skilled workers are kept on short contracts or are temporarily laid off.

These differences between the German and Japanese models are closely linked to their respective systems of wage determination. German-shaped systems tend to be highly formalized and position based—that is, job classifications, pay grades, and allowances are linked to the description of tasks for each position and the skills and work experience required. In the Sino-Japanese companies, wage determination is based on a mix between position-based criteria and individual appraisal of worker skills and personality, leaving greater room for personal allowances and bonuses. This system is much closer to Chinese human resources management, which, since the beginning of the post-Mao era, has shifted to personal allowances and gratifications as incentives for performance and loyalty.[62]

With regard to labor relations, the companies in our sample all share the characteristics of the corporate-bureaucratic regime of production—that is, compliance with labor laws; well-established trade unions that are part of management and also have party functions; implementation of collective contracts and the related mechanisms of workers' representation, including the staff and workers congress; grievance handling through the trade union; and comprehensive trade union activities regarding employee welfare and leisure. Labor conflicts occur only occasionally between the companies and individual employees, and there are almost no collective labor conflicts. In the Sino-Japanese JVs, the integration of the trade union with the management and the party organizations seems even more pronounced. Labor relations in all JV companies seem to have a distinctively "Chinese" character. Neither the German nor the Japanese partners are trying to "import" their specific models of labor relations into their Chinese JVs. In German-Sino JVs, therefore, we find very few distinctively German characteristics of "corporatism" or "social partnership."

A major characteristic of the regimes of production in all these companies is that the contractual regulation of wages and basic working conditions is minimal. Collective contracts, exclusively signed at plant or company level, describe only the general procedures of consultation between management and trade union. There are no written collective bargaining agreements on basic wages, job classifications, and seniority systems. In most cases, the union is familiar with the internal system of wage grades and pay determination. Hourly or monthly pay rates are fixed only in individual labor contracts. By the same token, company, industry, or regional wage standards are not formalized at all in the specific localities, and they play no role in the determination of company internal-wage systems. For the Sino-Japanese JVs, this seems compatible with the Japanese industrial relations systems. German companies for their part have not shown much interest in standardizing wages and regularizing internal pay and labor

practices through collective contractual agreements, although these practices are at the core of industrial relations in Germany.

The labor relations in these companies seem very stable. Changing economic conditions in the auto industry, however, may affect the foundations of the company-specific "social contracts" inherent to the corporate-bureaucratic regime of production, in spite of the continuing bright predictions of rapid growth for the auto industry in China. Outsourcing and the use of temporary workers undermine the nexus between the introduction of modern technology and organization under massive capital investment, on the one hand, and the relatively upscale labor standards in first-tier car companies, on the other, especially given the rapidly growing overcapacities in the auto industry in China. Japanese-backed companies with their relatively lean operations and young workforces may be less vulnerable to such pressures because they seem to have a structure in place to deal with such challenges. At the same time, Japanese carmakers have greater potential to externalize pressures on their core workers through their tight control of suppliers, which are mostly owned or co-owned by the major carmakers.

It is this specific structure, however, that exposes Japanese car assemblers to labor conflicts along the supply chain to a much greater degree than the German companies. Tightly integrated modular supply chains make final assembly plants vulnerable to labor stoppages at the lower tiers of production networks, as was demonstrated in highly visible ways by the work stoppages in the southern China automotive supply sector in 2010. In addition to the technical integration of production processes, the supply networks of Japanese carmakers are also rather homogeneous with regard to their production regimes and workforce composition. The overwhelming majority of second- and third-tier suppliers operate on regimes of flexible mass production or simple low-wage production. The upper management is largely Japanese, which produces a distinct separation in culture and pay vis-à-vis Chinese line workers and lower-level managers. The operators are exclusively migrant workers whose wages and working conditions are relatively similar to that of the great many low-wage workers in the light industries in the region. The relative homogeneity of the workforces, their exclusion from basic social services and civil rights in their urban environment, and their wider social and cultural networks were key factors in the social mobilization in the southern China automotive sector strikes in 2010.[63]

In contrast, German companies' supplier networks are more diverse, both in terms of their corporate structures as well as their labor and production regimes. German carmakers do not own or co-own their suppliers but cooperate with major multinational and Chinese first-tier suppliers that also coordinate subsuppliers at the lower ends of supply chains. Hence, regimes of flexible mass production and low-wage manufacturing coexist with other labor regimes among suppliers.

The supply pyramids include a significant proportion of state-bureaucratic regimes because many suppliers are owned by the Chinese partners of the respective German companies. The greater degree of supply-chain localization contributes to a higher workforce diversity because many suppliers, including those at the lower levels, prefer to employ local workers or have heavily segmented workforces with a mixture of local, migrant, temporary, and short-term workers. The presence of Chinese SOEs in the supply chains also provides for a high degree of political control over labor relations through their established local political relationships. In terms of wages, work, and employment, conditions in German-dominated supply chains are not much better than under the Japanese networks. The German model of relatively autonomous suppliers with mixed ownership and workforces, however, provides for greater social stability because the lines of confrontation between workers and management are more segmented.[64]

Evolving Labor Politics with "Chinese Characteristics"

The above discussion helps us understand the differences between German, Japanese, and Chinese systems of labor relations. It also substantiates our proposition that the production regimes of German multinationals in China cannot be seen as a localized version of German-style corporatism with Chinese characteristics. From this point of view, the standard distinction in the VoC literature between "liberal" and "coordinated" market economies does not explain the shaping of industrial relations in China's emergent model of capitalism. Regimes of production in emerging economies under accelerated globalization are shaped by complex processes of social, organizational, and political experimentation in the context of newly developing antagonisms between multinational corporations and their local workforces. This perspective is of particular importance for China because the country's relatively successful transition to capitalist relations of production has engendered complex and highly dynamic processes of class formation and a reshaping of social-power relations.

Although Western-inspired concepts of corporatism or neocorporatism do not seem to have much relevance to emerging labor policies in China, Chan and Unger's notion of a transition from "statist" to "societal" forms of social and political regulation remains highly relevant. As explained, the transformation of China's labor relations can be described as a blocked transition from a state-centered to a societal model of regulation that is the result of weak functional differentiation between state and civil society and "economic" and

"political" collective actors. The production regimes of German corporations in China offer a good illustration of this situation because their home-grown corporatist labor practices cannot work without the framework of such collective actors in the form of trade unions and employer associations at industry and macroeconomic levels. Even if corporatist deal making in German labor relations has been increasingly relegated to the company level (through works councils and company management), the system would hardly work without a stable institutional framework of collective bargaining that provides benchmarks for negotiations over wages, working conditions, and benefits. This is precisely what is missing in China.

In China today, labor conflicts and worker mobilization at the local and industry levels are, however, reshaping the rules of the game. The labor conflicts in the auto industry not only scared employers but also laid bare the deficits of the prevailing "disorganized despotism" in local and shop-floor labor relations in China's export-manufacturing bases.[65] This has engendered a new round of reform in Chinese labor policies, which reaches significantly beyond the aim of strengthening the contractual rights of individual workers and their enforcement as stipulated in the 2008 Labor Contract Law. This time, the collective rights of workers and their representation through trade unions is on the agenda, including the right to strike and mechanisms for collective bargaining. Guangdong Province, where the collective upheaval in the auto industry in 2010 took place, is at the forefront of such reforms. The trade unions in this province are actively promoting the independence of shop-floor trade unions from management, supporting democratic elections of shop-floor trade union representatives and engaging in several pilot projects for collective bargaining at the plant level, most prominently in Honda's Nanhai factory, the epicenter of the 2010 strikes.[66]

Driven by the collective actions of migrant workers in the region, the provincial government proposed guidelines on labor conflicts, which for the first time accepted strikes as a fact of life and established a set of rules governing collective negotiations and strike actions on the shop floor.[67] Although these legal norms have been only partially implemented, their basic thrust is in strengthening the collective representation of workers in order to shift the burden of conflict resolution from the state to societal actors. This perspective has most clearly been articulated by the head of the Guangzhou Automobile Group, the regional state-owned holding company automobile JVs, who made a comprehensive proposal to China's National People's Congress in 2011 to reinstate the right to strike in the constitution and to create a national law to regulate strikes and collective negotiations.[68]

This proposal clearly supported the idea of collective representation through trade unions and employer associations with relative independence from

government, but it drew a line between "economic" strikes over pay and working conditions and "political" strikes that undermine the social and legal order. At the same time, it introduced neatly defined rules for the conduct of collective actions. Many of the underlying concepts seem to be copied from German labor laws and court rulings, which impose a host of bureaucratic regulations on collective actions. As in Germany, the right to strike was not defined as a general civic right for working people but as a group right to be exerted and administered on behalf of the workers by trade unions.[69]

This model of collective negotiations based on strong associations with a de facto monopoly of representation and political acceptance by the state can certainly be seen as a vision of how to make "societal corporatism" work in China. Such a model could hardly be realized, however, without strong industry-wide regulation of basic standards of pay and working conditions, which in the West historically had been achieved through industrial bargaining. Under the prevailing conditions of highly fragmented, company-based labor relations, this seems more than difficult to achieve. Trade union reformers in China nevertheless support such an approach, and they raise the question of "equal pay for equal work" along the supply chains of major manufacturing industries. The particular model for such bargaining systems is Singapore, where the trade unions have a comprehensive presence in most manufacturing sectors and base wages (equaling about 70% of standard incomes) are negotiated at the industry level.[70]

Such visions are still exceptional in Chinese trade unions, and the future of China's labor relations is highly uncertain. It seems to be clear, however, that the shape of labor policies in China will bear strong Chinese characteristics.

2

GLOBALIZATION AND LABOR IN CHINA AND THE UNITED STATES

Convergence and Divergence

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Globalization has increasingly linked the two largest economies in the world, China and the United States. While the linkages often emphasize their symbiotic relationship, as seen in the new word "Chimerica," there is also a tendency for explicit or implicit comparisons of both countries' economic, political, and social systems. In particular, a common perception in both China and the United States is that the latter has a superior industrial relations (IR) system and that American workers are much better treated in the workplace than their Chinese counterparts. While this perception may be true in general, it risks suggesting that China should look to American IR institutions and practices as the best model. Moreover, this perception overlooks significant developments in both countries' IR systems under the influence of globalization. Comparing and contrasting these developments in Chinese and American IR offers a corrective to the view that one is better than the other, while shedding more light on the evolution of IR as a result of globalization and neoliberalism.

The comparison of Chinese and American IR systems has theoretical implications. A major debate in the field of comparative IR is whether global labor relations will become more similar or remain diversified, but the literature on this debate has mainly focused on the advanced economies, and there is no consensus among researchers. By comparing and contrasting the impacts of globalization on labor in China and the United States, two seemingly diametrically opposed economies, we seek to make a contribution to the convergence-divergence debate.

We argue that globalization has led to both convergence and divergence in the Chinese and American IR systems. On the one hand, globalization has strengthened market forces and spread neoliberal policies in both countries, resulting in some common IR outcomes including greater employment flexibility, wider wage and income gaps, a deterioration of social safety nets, and marginalized unions.[1] On the other hand, globalization's effects on IR in each country is moderated in particular by the stage of economic development, the state's role in labor relations, and the structure of each country's trade unions. These variables have resulted in a variety of impacts on workers, employment practices, policy responses to globalization, and challenges for union renewal and survival. Therefore, there is no wholesale convergence or divergence of IR driven by globalization. Instead, the same market forces implemented in the two different political, economic, and institutional contexts have shaped and will continue to shape both countries' IR, leading to both significant similarities and differences.

In the following sections we first situate our argument in the literature of comparative IR and then examine similarities and differences in the impact of globalization on labor in China and the United States. We conclude by suggesting lessons for labor reform in both economies.

The Convergence-Divergence Debate

The debate around the tendency toward economic and social convergence, as against continuing diversity in varying national settings, has been a significant theme in post–World War II social science research. Kerr et al. hypothesized that as less-developed countries came under the homogenizing forces of industrialization, their IR systems would look more and more like the model on which advanced industrial countries were presumed to be converging.[2] The available evidence, however, does not support a homogenization of institutions and practices of IR even among developed economies.[3] Since the late 1980s, the convergence theme has reappeared in a newer and perhaps stronger form linked to the notion of globalization. The key argument is that powerful forces of international competition, trade, capital mobility, deregulation, and the diffusion of best practices operate to drive convergence of national IR patterns. In particular, because of the United States' strong economic and employment growth in the 1990s, some analysts claimed that a new international convergence toward Anglo-American neoliberalism characterized by flexible labor markets was underway.[4]

Critics of these deterministic arguments have challenged the neoliberal thesis, arguing that institutional arrangements are firmly rooted in each society's unique history and traditions. They argue that globalization's effects on

individual economies, including its influence on the interests and strategies of social actors, vary considerably. They point, for instance, to globalization's greater impact on liberal market economies such as the United States than on coordinated market economies such as Germany.[5] Dissatisfied with both the neoliberal thesis of automatic social and economic convergence to a single best model and the varieties of capitalism approach that emphasizes the resilience of national institutions, some argue that instead of converging toward a single business model, a mixed or "hybrid" model incorporating elements from various systems while retaining enough of each distinctive traditional institutions is more probable.[6] Comparative IR theorists have proposed a similar thesis of "converging divergence," in which national IR systems are becoming internally more diverse at the same time as IR patterns are displaying similarities across countries.[7]

Such questions have become a major theme in the study of Chinese IR. Some scholars of the earlier stages of China's economic reforms asserted that some state-owned enterprises (SOEs) were converging on the Japanese "organization-oriented" model owing to similarities in both countries' cultures and traditions.[8] As reforms deepened, others argued that market reform and globalization were transforming Chinese IR toward the Western model of flexibility.[9] Yet others claimed that Chinese IR tended to converge on a hybrid model, mixing Western or East Asian employment practices with those retaining "Chinese characteristics."[10] A few China scholars were more cautious. While some believed that without political change, convergence caused simply by economic reform was not likely,[11] others emphasized the great variance of IR patterns, particularly across types of enterprises and regions.[12]

The ongoing convergence/divergence debate continues to provide rich insights for analyzing the comparative impacts of globalization on labor in China and the United States. In this chapter we throw some light on this discussion by focusing on several developments in each country's IR systems since the late 1970s as well as their underlying causes.

Globalization and IR Convergence in China and the United States

Although not a new phenomenon, globalization since the 1970s has had distinctive features such as the integration of product markets as a consequence of the removal of trade barriers, internationalization of financial markets stimulated by deregulation of restrictions on capital flows, the cross-border spread of technology, and the transnational organization of production by multinational companies.[13] These features have significantly heightened competition across markets,

increased the mobility of capital across national borders, and strengthened the interdependence of developed and developing economies. As a consequence, the IR of almost every country has been deeply affected. Although there is no consensus on any convergence of IR systems, some common changes have been found in both developed and developing economies, such as increased flexibility in wages and labor deployment and a race to the bottom with respect to labor standards.[14] The effects of globalization on IR have been particularly salient in China and the United States, the two biggest players in the global economy. Since the late 1970s, both China and the United States have been increasingly exposed to and actively participated in the new wave of globalization. As indicated in table 2.1, trade as a percentage of GDP in China and the United States rapidly increased from 21.65 and 20.76 in 1980 to 54.24 and 29.1 in 2010, respectively, and both countries experienced significant increases in foreign direct investment (FDI) inflows and outflows.

Rapid globalization in both China and the United States would not have been possible if neoliberal deregulation or economic restructuring had not been embraced by both countries. Adopting the view that a free market is the most effective means for ensuring material prosperity, both countries turned to economic liberalization policies in the late 1970s, including the reduction of tariff and non-tariff barriers, facilitation of capital and investment flows, and privatization of public industries or SOEs (in China's case), which have significantly increased competition between firms.[15] The "reform and openness" policies of China have gradually transformed the Chinese economy into a mixed one, with elements of both market mechanisms and central planning. Although the state still plays a critical role in economic coordination, market mechanisms have become increasingly important in resource allocation. Moreover, China's great dependence on FDI and exports for economic growth has exposed Chinese enterprises to more fierce international competition than is faced by firms in many other developing countries.

In the United States, growing global competition since the late 1970s has triggered neoliberal economic restructuring that emphasizes the centrality of markets and market-driven solutions, privatization of national resources, and the removal of state protections. The pervasive political changes associated with Ronald Reagan's election in 1980 further accelerated the deregulation of product, financial, and labor markets, leading to US companies facing intensified competition. Moreover, the pursuit of free trade, supported by advances in information technology, has provided great opportunities for US companies to outsource work to lower-wage countries. In addition, growing immigration because of globalization and the reduction of barriers to the movement of people across national borders has created new sources of labor.

TABLE 2.1 Globalization and economic development in China and the United States

	1980		1985		1990		1995		2000		2005		2010	
	CHINA	US	CHINA	US	CHINA	US	CHINA	US	CHINA	US	CHINA	US	CHINA	US
GDP (billions)*	183	5,142	304	6,028	444	7,064	793	8,002	1,198	9,898	1,908	11,146	3,246	11,547
GDP per capita*	186.44	22630	289.67	25338	391.654	28298	657.99	30051	949.18	35080	1464.1	37701	2423	37797
Annual GDP growth (%)	7.8	-0.287	13.5	4.11	3.8	1.85	10.9	2.55	8.4	4.17	11.3	3.06	10.3	2.85
Sectoral value added (% of GDP)														
Agriculture	30	3	28	2	27	2	20	2	15	1	12	1	10	1
Industry	48	34	43	31	41	28	47	26	46	23	47	22	47	20
Service	22	64	29	67	32	70	33	72	39	75	41	77	43	79
Sectoral employment (% of total employment)														
Agriculture	68.7	3.6	62.4	3.1	60.1	2.9	52.2	2.9	50	2.6	44.8	1.6	36.7	2
Industry	18.2	30.8	20.8	28.3	21.4	26.4	23	24.3	22.5	23.2	23.8	20.6	28.7	17.1
Service	13.1	65.7	16.8	68.6	18.5	70.7	24.8	72.9	27.5	74.3	31.3	77.8	34.6	80.1
Exports (% of GDP)	10.65	10.15	9.21	7.22	16.07	9.6	20.23	11.06	23.33	11.04	37.08	10.37	29.45	13
Imports (% of GDP)	11.01	10.62	13.29	9.97	13.09	10.95	18.58	12.3	20.92	14.9	31.55	16.12	24.79	16.1
Trade (% of GDP)	21.66	20.76	22.5	17.19	29.16	20.55	38.81	23.36	44.24	25.95	68.63	26.49	54.24	29.1
FDI inflows (% of gross fixed capital formation)	n.a.	3	1.83	2.43	3.78	4.83	14.33	4.44	9.39	16.21	12.94	4.59	7.3	9.6
FDI outflows (% of gross fixed capital formation)	n.a.	3.4	0.69	1.71	0.9	3.71	0.8	7.59	0.22	8.03	1.25	1.48	2.37	16.9

* GDP and GDP per capita are in 2000 constant US dollars.

Sources: UNCTAD, http://unctad.org/sections/dite_dir/docs/wir12_fs_us_en.pdf; World Bank, *World Development Indicators* 2012; *China Statistical Yearbook* 2011.

In this intensely competitive international economy, in both China and the United States firms have significantly increased their use of contingent employment, flexible working hours, and layoffs; reduced workers' welfare; and made efforts to weaken labor unions. Therefore, the rise of the neoliberal global economy has led to a certain convergence in Chinese and American IR—that is, both have experienced more prevalent employment flexibility and wider income gaps, a decline in social protections, and marginalized labor movements.

China

Under the planned economy, urban workers in China, especially those in the state sector, enjoyed lifetime employment; standard, stable, and egalitarian wages; and "cradle-to-grave" welfare, including housing, medical benefits, pensions, and various social and entertainment provisions. Globalization and neoliberal reform, however, have gradually smashed this "iron rice bowl." First, the gradually instituted labor-contract system has changed employment from lifetime to contract based, granting management autonomy in terms of hiring and firing. Although a few workers are given open-ended contracts, it has become prevalent to employ various types of temporary workers, including workers without labor contracts, dispatch labor (workers hired by employment agencies and sent to work at clients' sites), and apprentices or student interns from technical schools.[16] Although foreign-invested enterprises (FIEs) pioneered the use of various flexible employment practices in China, Chinese national enterprises, including both SOEs and domestic privately owned enterprises (POEs), learned these practices quickly. For example, twelve-hour days, six or seven days a week, were not only common in the Hong Kong, Taiwan, and Macao–-owned enterprises in southern China but also frequently found in profitable SOEs in inland cities.[17] In addition, according to China's official labor statistics, some seventy million workers—the majority of whom were working in the state and collective sectors—were laid off between 1996 and 2005, mainly as a result of market-oriented enterprise restructuring. Although the Labor Contract Law that went into effect in 2008 aims to reduce the use of contingent labor, it has thus far failed. Instead, the number of those working as dispatch labor sharply increased from twenty million at the end of 2007 to sixty million at the end of 2010.[18]

Second, the state-administered reward system is now fully determined by management. Although the equal-consultation and collective-contract system was introduced in the mid-1990s, the system is marked by a strong formalism. Put simply, the workplace trade unions are more often than not an arm of management, and the process is dominated by management with little involvement

of workers. The resulting collective contracts provide only general terms and conditions of employment, adding little or nothing to existing regulations.[19] The various flexible wage and compensation systems unilaterally designed by management, including such options as piece rates and performance-based pay, have greatly widened wage differentials. Although scholarly estimates of the Chinese Gini coefficient vary greatly, an official estimate that the top 10 percent of Chinese earn about twenty-three times that of the bottom 10 percent is almost certainly understated.[20] Moreover, according to an All-China Federation of Trade Unions (ACFTU) survey, 23.4 percent of the respondents had not received a wage rise between 2002 and 2007, and 75.2 percent believed that the current income distribution system was unfair.[21] Although the state maintains its influence on wage levels, structures, and growth at the macro level, such influence has been continuously declining. As a consequence, in the almost three decades since Deng Xiaoping said "Let some people become rich first," China has transformed from one of the most equal societies in terms of wages and income to a highly polarized one.

Third, since the 1990s, as an important part of economic restructuring, contributory social insurance schemes have been introduced to replace the cradle-to-grave welfare system. Although workers who are eligible for various social insurance benefits may find degraded employment welfare, many more workers—especially migrant workers—are still excluded from the social insurance schemes and suffer from little social protection. According to Ministry of Human Resources and Social Security statistics, by the end of 2011, the coverage of the four mandatory types of social insurances (medical, pension, work injury, and unemployment) was 60.0 percent, 52.8 percent, 39.9 percent, and 49.3 percent among urban workers and 16.4 percent, 18.4 percent, 9.5 percent, and 27.0 percent among rural peasant workers, respectively. In addition, 38.7 percent of urban workers had mandatory maternity insurance, while the statistics for rural peasant workers was not reported probably because of the extremely low coverage.

Finally, globalization and China's market reforms have greatly challenged the ACFTU, resulting in increased union marginalization. First, Chinese union density started to decline after the launch of enterprise reform in 1984 (see fig. 2.1). In particular, because of large-scale restructuring and layoffs in the state sector and the difficulty in setting up unions in POEs and FIEs, the ACFTU lost 16.3 million members between 1992 and 1999, leading to a decline in union density from 41.85 percent to 26.77 percent. There was a reversal after 2000 owing to a nationwide campaign in the private sector; the coverage of the collective-contract system had also significantly increased since its formal introduction in 1994, from 12.09 percent in 1996 to 34.06 percent in 2008.[22] The lack of significant

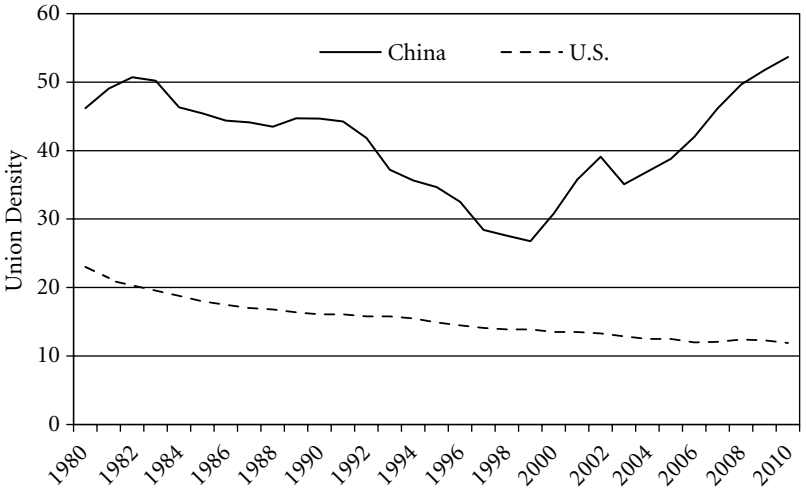

FIGURE 2.1. Union densities in China and the United States, 1980–2010. Note: Chinese union densities are calculated as ratios of union members to total nonagriculture employment, and US union densities are calculated as ratios of union members to total wage and salary workers. Sources: *China Statistical Yearbook* (1981–2011); *China Trade Union Statistical Yearbook* (1995–2011); Barry Hirsch and David Macpherson, "Union Membership and Coverage Database from the CPS, 2012," http://www.unionstats.com/.

worker input and strong formalism in union organizing and consultation processes, however, render these statistics largely meaningless.[23]

Second, the ACFTU has suffered from a severe human resource crisis since the 1990s, caused by both enterprise restructuring, in which management has been granted the power to reduce union staff, and civil service reform, involving the downsizing of mass organizations. The quality of union staff has been very low. The introduction of new union roles involving collective consultation and dispute resolution has further challenged union staff because most of them lack the necessary knowledge and skills to effectively perform these functions.[24] Perhaps the union's greatest crisis is its increasing irrelevance to Chinese workers. While unions at the regional and national levels have been able to protect certain workers' interests through legal aid, enterprise-level unions have become the ACFTU's weakest link because of direct employer suppression or domination.[25] Workers' dissatisfaction with the employer-controlled unions was clearly demonstrated during the Honda auto parts workers' strike in the Nanhai district of Foshan, Guangdong Province, in 2010, in which workers demanded not only higher wages but also an autonomous union.[26]

The United States

American IR during 1950–70 was characterized by secure long-term employment, stable pay, strong unions, and collective bargaining that could effectively improve working conditions and welfare. In terms of employment security and good fringe benefits, big US firms were quite similar to Chinese SOEs in the Maoist period. Globalization and neoliberal restructuring since the late 1970s, however, have deregulated important industries such as trucking, airlines, and telecommunications, at a substantial cost to their workers. Many government jobs have been privatized and outsourced and low- and middle-wage workers have been put in direct competition with much-lower-wage workers in the developing world. This has been exacerbated by a dysfunctional immigration system that has imposed increasing competition on low-wage US workers while leaving a growing population of immigrants at the mercy of their employers. All of these conditions have gradually transformed American IR into a deregulatory system that features flexible employment, enlarged wage and income gaps, reduced welfare and benefits, and declining labor unions.

Increasing international competition and neoliberalism have encouraged US employers to seek lower labor costs and greater employment flexibility, which has gradually eroded the standard employment model in which workers are assumed to work full time for a particular employer and often progress upward on job ladders within internal labor markets.[27] Since the 1980s, there has been a general decline in the average job tenure, especially among middle-aged white men, the group traditionally protected by internal labor markets.[28] This has led to the emergence of the so-called at risk society—best represented by the frequent large-scale layoffs that have become a basic component of business-restructuring strategies.[29] Between the early 1980s and 2004 more than thirty million full-time workers lost their jobs involuntarily, mainly because of outsourcing of production to countries where conditions were more favorable to the global manufacturers.[30] The scale was comparable to the scale of layoffs of state and collective workers in China. In the five years following the passage of the North American Free Trade Agreement in 1993, an estimated 440,000 jobs in the United States were lost to Canada and Mexico alone.[31]

Although mass layoffs (of fifty or more people) may not be surprising during economic downturns, the Bureau of Labor Statistics shows that even in good economic times (the late 1990s and early 2000s) the number of mass layoffs was high and had increased. Even worse, layoffs have not been limited to the manufacturing sector but extend to various high-tech industries. One estimate found that between 500,000 and 800,000 high-tech jobs moved offshore in the early twenty-first century.[32] Even before the 2008–9 global financial crisis, Hewlett-Packard cut 15,000 jobs in 2005 and Intel laid off 10,000 employees in 2006.[33]

In addition, there has been a rapid growth of contingent employment including contract and temporary work. Firms have increasingly contracted out service work at both the low and high ends of the labor market. Moreover, between 1979 and 1995 the temporary help supply industry increased its daily head count from 435,000 to 2.4 million workers, an annual growth of 11 percent, which was over five times more rapid than the growth of overall US nonfarm employment.[34] Finally, working-time flexibility has greatly expanded in the US workplace. Workers have to adhere to variations, including part-time, split shift, full-time, overtime, and weekend schedules. In 2009, one-in-four Americans worked part time; one-in-four worked more than full time, and nearly one-in-ten workers worked sixty or more hours a week.[35] The trend of increased working hours has been particularly striking for low-wage workers striving to make ends meet with relatively low minimum wages—a result of neoliberal labor market policies.[36]

Neoliberal globalization has also contributed to rising income inequality in the United States: while the richest Americans have made great fortunes from trade and financial liberalization, the majority, especially the poorest, have been deeply affected by deregulation and competition from workers in developing countries. From 1979 to 2007, the average after-tax household income for the richest 1 percent of Americans rose 275 percent; for the rest of the top 20 percent it rose 65 percent; but for the bottom 20 percent it rose merely 18 percent.[37] The share of national income of the richest 1 percent more than doubled between 1980 and 2008, from 8 percent to 18 percent, while the poorest 20 percent of households received only 3 percent of the total dollars earned in 2008, a smaller share than they received in 1970.[38] The rising income gap is particularly striking when one compares the earnings of CEOs with those of average employees. According to the AFL-CIO Executive Paywatch, in 1980 the average CEO made forty-two times the pay of the average employee, but in 2011, that proportion had increased to three hundred and eighty times more for CEOs. The income gap between the rich and the poor has been further widened by the neoliberal tax policies that reduced the marginal tax rate on the highest earners from 71 percent in 1970 to 35 percent in 2011, the marginal effective tax rate of corporations from 42 percent in 1970 to 23 percent in 2003, and the capital gains tax rate from 35 percent in 1978 to the current 15 percent.[39]

Globalization and neoliberal policies have also eroded workers' welfare. Between 1979 and 2010, the share of workers with an employer-provided health insurance plan in which the employer paid at least part of the premium and with some kind of retirement plan sponsored by current employers decreased 12.9 percent and 7 percent, respectively.[40] The dismantling of social welfare programs, such as the replacement of welfare with workfare programs in 1996, made it

essential for people to participate in low-wage paid employment.[41] Moreover, the quality of employment-based health care and retirement plans has been declining, as employers have increasingly made employees shoulder more of the premiums and shifted risks to the employees.[42] These risks are real, as can be seen, for example, in 120,000 United Airlines employees losing most of their retirement benefits when the company declared bankruptcy in 2004.[43] In addition, reduced benefits for programs such as unemployment insurance and social assistance have further deteriorated workers' welfare. Even the previously stable pension schemes in the public sector have been increasingly under threat.

Finally, globalization and deregulation have seriously challenged US unions and accelerated their decline since the 1970s. Union density in the United States has declined by almost half, from 23.0 percent in 1980 to 11.9 percent in 2010 (fig. 2.1). The decline in union membership has been particular severe in the private sector where union density dropped from about one-third of wage and salary workers in the mid-twentieth century to 6.9 percent in 2011.[44] Although union membership in the public sector has significantly grown in the past several decades, public-sector unions have been increasingly under attack since the 2008–9 global financial crisis. Even states with strong union traditions such as Wisconsin and Ohio have started to impose legislative restrictions on public-sector unions.

One-third of union decline can be attributed to globalization, the immediate threat of job loss through overseas outsourcing, the changing focus from manufacturing to services, and a growing reliance on contingent workers.[45] Moreover, neoliberal labor market policies have imposed great restrictions on union organizing and free collective bargaining, such as right-to-work legislation (which bars union contracts from requiring nonunion members to pay fees for representation) in the southern states.[46] As a result, the coverage of collective agreements dropped from 25.7 percent in 1980 to 13.0 percent in 2011.[47] Even worse, the bargaining power of unions has been tremendously weakened by international competition and the growing mobility of capital. In particular, unions' strike leverage has largely evaporated. Whereas 2,468,000 workers participated in 381 mass walkouts in 1970, in 2010 there were only 11 large-scale work stoppages, involving 47,000 workers.[48] As a result, unions have frequently made concessions on both wages and benefits since 1980; such concessions were rarely seen in the prior three decades.[49]

The political effectiveness of unions has also diminished; for example, they failed to limit Ronald Reagan to a one-term presidency in 1984, and during 2009–10 they failed to enact labor law reform under a Democratic president and Democrat-controlled Congress via the Employee Free Choice Act, which would allow workers to elect union representation by simply signing a support card.[50] In

this context, public support for labor unions sharply dropped in the past decade, particularly during the global financial crisis. According to a Gallup survey, less than half (48%) of Americans approved of labor unions in 2009, the lowest level in over seventy years.[51] Although there is no consensus as to the factors that are driving the declining popularity of unions, high unemployment caused by international competition and deregulation seems to be an important one. A study estimates that for every point in unemployment increase, the approval rate for labor unions goes down 2.6 points.[52]

Economic Development, the State, Trade Unions, and IR Divergence

The analysis above shows that neoliberal economic globalization has led to a certain convergence of the Chinese and American IR systems and labor conditions. The impacts of globalization on labor in China and the United States, however, have also varied significantly owing to their respective economic, political, and institutional differences. In the following section we will examine three economic, political, and institutional factors that have moderated the effects of globalization on labor in China and the United States: the stage of economic development, the role of the state, and the structure of trade unions.

Stage of Economic Development

The development of capitalism is conceived as moving through a series of stages, each of which is "characterized by a specific form of the accumulation process embedded in a particular set of institutions."[53] Countries at different stages of economic development or industrialization face different requirements for capital accumulation and correspondingly develop different capital accumulation regimes as a result of the "logic of industrialism" or the strategic choices made by industrializing elites.[54] As a distinct phenomenon related to industrialization, IR is heavily influenced by regimes of capital accumulation.[55]

China and the United States are obviously at different stages of economic development given the huge differences in per capita income levels, sectoral shares of income in GDP, and sectoral shares of employment (see table 2.1).[56] In 2010 the per capita GDP of China was $2,423; of this, 43 percent of value added came from the service sector, and 36.7 percent of Chinese employment was in the agricultural sector. The corresponding figures for the United States were $37,797; of which 79 percent and 1.6 percent were from the service

and agricultural sectors, respectively. Indeed, while China is in the process of industrialization, the United States has already entered a postindustrial era. The disparity in economic development stages of the two countries result in divergent IR, as we have suggested.

Globalization has brought enormous employment opportunities and dramatic improvements in living standards to the vast majority of Chinese, but it has resulted in severe job losses and stagnant or even declining wages and income in the United States. Trade and financial liberalization, as well as technological progress, have allowed global capital to maximize profits by outsourcing or moving operations to developing countries, particularly China. As a country transitioning from an agricultural to an industrial society, China's biggest advantage in the global economy has been an abundant supply of cheap labor.[57] It is estimated that hourly compensation costs in China's manufacturing sector, despite large increases since the mid-2000s, were only 4 percent of those in the United States in 2008.[58] The market-oriented reform and increasing FDI inflows since 1980 (table 2.1) have created millions of jobs for both urban and rural Chinese. Manufacturing employment increased rapidly between 1980 and the mid-1990s, declining thereafter because of mass layoffs in SOEs and collective-owned enterprises; it increased again after China's entry into the World Trade Organization in 2001.[59] Employment in FIEs and Hong Kong, Taiwan, and Macao–owned enterprises alone increased from zero in the early 1980s to 18.23 million in 2010, and the increase continued even during the global financial crisis.[60] Moreover, despite the rapidly rising income gaps described above, globalization and market-oriented reform have tremendously increased the incomes of ordinary Chinese. Between 1980 and 2010, the per capita gross national income of Chinese increased from $220 to $4,270, and the poverty rate (at $1.25 a day) fell from 84 percent in 1981 to 13 percent in 2008, which took over 600 million people out of extreme poverty (table 2.1).[61]

Although there are no reliable estimates of real wages in China, Chinese workers' compensation has undoubtedly increased, which can be seen from the forty-seven times increase of average nominal wages of urban workers between 1980 and 2010 (from RMB762 to RMB36,539) and significant increases of minimum wages all over China. For example, monthly minimum wages in Shenzhen, Guangdong Province, increased from RMB245 ($44) in 1992 to RMB1,500 ($238) in 2012.[62] Therefore, the majority of Chinese starting from a very low base have experienced a significant improvement in their living standards since the reform, and China has developed a burgeoning middle-class that is already larger than the entire population of the United States.[63] Even for the large number of rural migrant workers who work under sweatshop conditions, conditions are better than they were thirty or even ten years ago.

In sharp contrast to the Chinese context, most US workers, especially those in the manufacturing sector, have experienced the downside of globalization and neoliberal economic and trade policies. Although overall employment growth in the US economy in the past two decades was substantial, virtually all of the incremental employment came from the nontradable sector. Employment in most areas of manufacturing sharply declined as a result of the outmigration of functions in global supply chains associated with lower value-added per job.[64] According to US Bureau of Labor Statistics data, manufacturing employment decreased by 36.6 percent, or 6.83 million workers, between 1980 and 2011. Although the loss of manufacturing jobs was accompanied by a dramatic increase in productivity, such gains failed to translate into increases in worker compensation. Service-sector employment grew substantially in the same period, but this actually provided downward pressure on real wages as real compensation per worker in the service sector only amounted to approximately half of that in the manufacturing sector.[65] In addition, the inflation-adjusted value of the minimum wage in 2010 was 15 percent below what it was in 1979.[66] Consequently, the earnings of middle-income Americans have barely budged since the mid-1970s; instead, they have regressed by 7 percent in the first decade of the millennium.[67] Wage declines have been particularly evident for men. Between 1969 and 2009 the median wages earned by American men between the ages of thirty and fifty dropped by 27 percent.[68] To replace declining wages, American workers have had to increase their work hours or have their spouses or other family members enter the labor force. According to one estimate, American families worked the equivalent of an additional month each year in the early 2000s as compared to 1970.[69] Even so, most Americans are not substantially better off in terms of their economic situation than they were in 1970.[70] Moreover, the share of workers with a good job—one that pays at least $37,000 per year, has employer-provided health insurance, and an employer-sponsored retirement plan—fell from 27.4 percent in 1979 to 24.6 percent in 2010.[71] Many of the workers who lost their jobs found it very difficult to secure new employment or had to accept lower-paid jobs, which has led to a rapidly shrinking middle class.[72] The 2008–9 global financial crisis further worsened the situation, as the number of Americans living below the official poverty line ($22,314 for a family of four in 2010) reached 46.2 million in 2010, the highest number in the fifty-two years for which poverty estimates have been published by the US Census Bureau.

In addition, because of each country's unique stage of economic development and position in global value chains, globalization has spread divergent patterns of employment in China and the United States: a highly exploitative pattern and a high-performance pattern. FDI in China, especially from newly industrialized Asian countries, introduced the most brutal employment practices to the former

"workers' paradise," including extremely low wages, forced labor, child labor, and unsafe and unhealthy working conditions, which later diffused to private and even state enterprises.[73] Despite various wage regulations, such as those on minimum wages and overtime compensations, the wages of Chinese workers, especially migrant workers, were notoriously low owing to weak labor law enforcement and employers' use of minimum wages as prevailing wages. In the 1990s, Hong Kong, Taiwan, and Macao–owned enterprises in coastal areas often used security guards, gang members, or thugs to confine workers to their dormitories when they were not working and withheld workers' identity papers or unpaid wages, or even threatened physical reprisal if workers indicated an intention to quit their jobs.[74] And there were even worse forms of forced labor, such as prison labor and slave workers working in many so-called black factories, the most notorious of which was exposed in the Shanxi brickyard scandal that broke in 2007. This scandal also revealed another serious violation of labor rights—that is, the use of child labor. Although China has regulations prohibiting the employment of children under sixteen as well as hazardous labor for those between sixteen and eighteen, child labor is still occasionally found in low-end labor-intensive industries such as textile, clothing, shoe, luggage, and toy manufacturing.[75] In addition, unsafe and unhealthy working conditions were commonly seen in the Chinese workplace. For example, according to China's official data in 2003, there were 15,537 injury- or death-related accidents in the industrial and mining sectors; more than 16 million enterprises were exposed to toxins, with more than 200 million people under threat; and about 700,000 suffer from occupational diseases annually.[76] Although there have been some improvements in working conditions, the highly exploitative employment practices are still adopted by various types of Chinese enterprises.[77]

Although sweatshop working conditions have not completely disappeared in the United States, they are far rarer than in China. Given the growing international competition, more and more US employers have realized that they cannot compete with developing countries on labor costs but must rely on innovation and efficiency. Consequently, high-performance employment practices aimed at improving enterprise performance through participation and empowerment of frontline workers, such as production teams, problem-solving teams, employee empowerment, extensive training, and incentive pay, have emerged and become increasingly popular in the US workplace since the 1980s.[78] Numerous studies have suggested that these high-performance employment practices are able to increase productivity, reduce costs, improve quality, and may benefit employees both psychologically and materially.[79] While these practices have started to diffuse to various industries in the United States, they still seem irrelevant for most Chinese enterprises where Taylorist production regimes dominate.[80]

Role of the State

As an important determinant of IR policy, nations play a critical role in balancing the interests of capital and labor through a variety of institutional and political means. Even in the liberal market economies, states have to secure labor peace and political legitimacy in order to maintain economic growth.[81] The role of the state in national IR systems, however, differs greatly across countries. In China, despite more than three decades of economic liberalization, the authoritarian regime and heavy state intervention remain key features of the IR context. Indeed, the state is the most powerful IR actor in China; it initiates economic reforms, introduces markets, owns or controls a large number of enterprises, regulates employment conditions, and fundamentally defines the relationship between labor and capital. In particular, following the model of state corporatism, the ACFTU and employers' associations are incorporated into the state to serve its interest of social control.[82] In the United States, a key feature of the labor movement is the relatively minimal role of the state in employment relations. Although the state regulates employment conditions and the labor-management relationship, its role in IR is far more limited than that of the Chinese state, largely because of the strong ideology of free markets and the tradition of voluntary regulation of employment relations through collective bargaining between unions and employers. Moreover, unlike many European countries and China, there is no legacy of corporatism.

Economic globalization has greatly challenged the regulatory role of states since the 1980s. Although both China and the United States have adopted neoliberal policies and deregulated the labor market, deep-rooted differences in the role of the state have led to varied policy responses to globalization. In China, although market reform and deregulation have resulted in unprecedented economic growth and a rapidly growing middle class, they have also, as noted earlier, increased job insecurity, reduced workers' social protections, widened income gaps, and spread sweatshop working conditions, which have spurred waves of protests and strikes. According to data released from the Chinese Ministry of Public Security, mass incidents (defined in China as any kind of planned or impromptu gathering that forms because of "internal contradictions," including mass public speeches, physical conflicts, airing of grievances, or other forms of group behavior that may disrupt social stability) increased from 8,700 in 1993 to 87,000 in 2005, and it was estimated that the number reached 127,000 in 2008; about one-third of mass incidents were labor protests.[83]

To maintain industrial peace and political stability, the Chinese state has made two major policy choices that are consistent with its authoritarian nature and paternalistic approach. The first is to strengthen the corporatist arrangement

of employment relations. Given that a large number of private-sector workers do not belong to any workplace trade union, the state has made efforts to enhance the monopoly of the ACFTU in worker organizing. On the one hand, any attempts by workers to form their own organizations have been immediately suppressed. On the other hand, the state has actively supported the ACFTU's recruitment campaign with the hope that a more inclusive official union can counter the development of independent labor organizations. As a result, declining union density has been rapidly reversed since 2000 (see fig. 2.1). In addition, the state has explicitly assigned the task of maintaining social stability to the ACFTU and supported various union activities that can promote harmonious labor relations, such as legal mobilization (i.e., providing legal aid to workers and advocating workplace rights and law enforcement) and collective consultation.[84] Another major effort of the state in strengthening corporatist employment relations is the establishment of the tripartite consultation system from the national to local levels, dominated by the Ministry of Human Resources and Social Security and its local offices. Despite some evidence of increased autonomy of both unions and employer representatives in the tripartite consultation process, these "social organizations" are still state controlled, and their relative autonomy and even their differing agendas are still seen as the purview of the state.[85]

The second policy response of the Chinese state has been to re-regulate the labor market to balance economic development with labor protection.[86] Since the early 2000s China has enacted or revised significant labor laws to re-regulate employment conditions and labor-management relationships; these include the Labor Contract Law, the Labor Dispute Mediation and Arbitration Law, the Trade Union Law, and the Social Insurance Law, which together provide basic legal protections for workers against brutal employment practices. In particular, despite various enforcement problems, the much-debated Labor Contract Law, which took effect in 2008, has significantly increased the coverage of individual labor contracts and improved certain employment practices.[87] In addition, the state has instituted a variety of active labor market programs that provide minimal livelihood subsidies for the very poor, transitional assistance, retraining and re-employment help for laid-off workers, and tax incentives for enterprises to hire unemployed workers. The state has even started to provide migrant workers, who are the most vulnerable group in the labor market, with free or subsidized skill training and to include them in the social insurance system.

In the United States, although public policies sought to increase the role and strength of labor market institutions between the 1960s and early 1970s, globalization and neoliberal restructuring removed the state as an active player in the labor market beginning in the late 1970s and thus negatively affected the interests of labor. Although many US workers have suffered from job losses, reduced

welfare, and deteriorated working conditions, the number of strikes has sharply decreased, and there have been few large-scale labor or social protests. Therefore, not surprisingly, American political leaders, unlike the Chinese, have not felt it necessary to revive the state's regulatory role in the labor market. Where labor market regulations remain in place, their ability to provide the protections originally sought are often weakened. Although there have been legislative initiatives on employment-related issues such as minimum wages, race and sex discrimination, health and safety, and family and medical leave, work-based employment benefits and workplace rights have decreased, the doctrine of employment-at-will remains the default employment relations policy, and labor policies continue to make union formation difficult.

In the aftermath of the 2008–9 global financial crisis, instead of re-regulating the market, several state governments have sought to further curtail workers' rights. For instance, Wisconsin imposed significant legislative restrictions on public-sector unions in 2011; and in 2012 Indiana became the first right-to-work state in the former union stronghold states of the Midwest and Northeast. In addition, US programs geared toward helping those workers adversely affected by globalization have been very modest. According to Organisation for Economic Co-operation and Development (OECD) statistics, US public expenditures on labor market programs were merely 0.43 percent of GDP in 2007.

The Structure of Trade Unions

The structure of trade unions, which varies across the world, is critically important for their functions and activities and exerts a significant influence on the course of IR.[88] In China, there is only a single union, the ACFTU, which adopts a pyramidal top-down structure of organization consisting of national, regional, and primary levels. At the bottom level grassroots unions are organized according to the principle of enterprise unionism, while upper-level unions are set up both along industry lines and within geographic boundaries with a parallel structure to that of the government administration. Trade unions at all levels are under the leadership of the Chinese Communist Party, which means that genuine democratic elections within unions are rare. Although union leaders at the regional and national levels are appointed by the party, enterprise union chairs are often appointed by employers. Collective consultation, the Chinese version of collective bargaining, is mainly at the enterprise level, though regional and local sectoral consultation has emerged in some areas.[89] Despite the rhetoric of safeguarding workers' rights, the structure of the ACFTU determines its major function as serving the party's interest in maintaining social stability, the "transmission belt" role of unions as prescribed by Chinese Communist Party doctrine.[90]

In the United States, the two most prevalent union forms are craft unions, whose jurisdiction is limited to workers in a specific trade or profession, and industrial unions, whose jurisdiction encompasses all workers in a firm. The US labor movement has a federated structure consisting of national sectoral unions with regional structures and affiliated local unions. Most sectoral unions are affiliated to one national labor center, the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO), whose primary role is to promote labor's political objectives. The AFL-CIO has subordinate central bodies in each state and major city as well as area federations in less urban areas. Although the AFL-CIO assists its member unions' collective bargaining activities, it does not have formal authority over these activities and is seldom directly involved in them; its role is to mobilize support from other unions for a particular union's bargaining campaigns.[91] Autonomous national unions are the key bodies of most US unions, and they supervise broad national-level planning, engage in political activities, negotiate company or industry-level collective agreements, recruit and organize new members, and coordinate the union with the AFL-CIO. Local unions, which have great autonomy within many national unions, provide direct services to and representation of members, including negotiation of local contracts, grievance processing, and the direction of strike or picketing activities; in some cases, they organize new members.[92] Union officers in both local and national unions are elected regularly through democratic election processes.

Globalization has adversely affected trade unions in China and the United States in some similar ways, as discussed, and unions in both countries have been struggling to become revitalized. Because of the great structural differences, however, these two countries face different challenges in working for union survival or renewal. The nondemocratic structure and processes of Chinese unions make their biggest survival challenge providing effective representation to workers who have been increasingly exposed to the tyranny of national and global capital since the market-oriented economic reform and openness

Since the 1990s the national ACFTU and its regional branches have actively participated in labor legislation and policymaking to insert pro-labor regulations into the institutional framework governing IR as well as to provide increased assistance and welfare to workers affected by globalization and marketization. In addition, many regional ACFTU branches have set up legal aid centers providing workers engaged in labor disputes with free legal services including consultation, mediation, and representation in labor arbitration committees and courts. Even some sector-based union associations and enterprise-level unions have improved their representative role through strengthening their collective consultation function or introducing direct elections of union leaders.[93]

All these improvements, however, are greatly limited by the structural constraints on unions. Although the ACFTU's high official status has helped it achieve certain success in terms of institution building, tight state control greatly limits the union's representativeness and ability to independently and effectively make strategic choices and engage in substantive activities. It is unable and unwilling to advocate for very basic labor rights such as freedom of association and genuine collective bargaining, to challenge neoliberal policies that deeply and negatively affect many workers, or to represent workers when the interests of labor are in conflict with those of the state. The employer-dominated enterprise-level unions are even less efficacious. Despite aggressive union campaigns on concluding collective contracts and the expansion of direct elections of grassroots union leaders, such contracts remain largely formalistic, and elected union leaders are easily co-opted by employers.[94] The 2010 strikes in Honda and Toyota factories confirm how incompetent enterprise unions are at representing workers' interests.[95]

At the same time, the decentralized structure of US labor organizations impedes their ability to act collectively. This in turn has made it very difficult for unions to successfully fight for changes in labor law that would make it easier for workers to either join existing unions or form new ones. Thus, the two key challenges for union renewal are to increase their political influence and to effectively organize new members. Although the declining union density in the United States can be attributed to many factors, the structure of organized labor looms as a major one because of its problems adapting to the dramatic changes in the global economy.

Union jurisdictions are still based on the structure of the mid-twentieth-century economy and have not had any major reorganization to adapt to workers in a changed economy, including those in service occupations and professional, technical, and white-collar jobs (except those in the public sector). Unlike the ACFTU, which combines the functions of sectoral unions and national center, the AFL-CIO has had no role in organizing workers into unions since the AFL and CIO merged in 1955. Organizing is the province of the sectoral unions. The result is a lack of nationwide coordinated organizing efforts and, frequently, competition among unions for the same members. Moreover, many national and local unions have been slow to focus on recruiting new members. Among those national unions that have developed aggressive growth strategies, many experience major resistance to new organizing strategies from local unions whose existing members fear that new members will either dilute the existing work (in craft unions) or cause decreased levels of service (industrial unions).[96] Because local unions enjoy high autonomy in their activities, national unions can only try to convince them to develop strategies to gain more members.[97] But local

unions tend to be more interested in pleasing existing members by focusing on contract negotiation and enforcement of work rules rather than in organizing new members.[98] Even when their national unions have fully endorsed the new approach to organizing, many locals continue to rely on old tactics or eschew new organizing altogether.[99]

Although a few local union leaders have realized the importance of organizing, campaigns urged by such leaders are often hampered greatly by a lack of interest and motivation on the part of the union staff and members.[100] In addition, because labor in the United States is not organized along industrial lines, in any industry there may be several or more unions competing for worker representation, which significantly increases the difficulty of obtaining union recognition.[101] Moreover, unions may be affected by globalization and neoliberal economic policies in varying ways, which may lead them to adopt different policy preferences and priorities.

The decentralized structure of the US labor movement therefore makes it very difficult to mobilize unions or workers around a unified position on any important policy or socioeconomic event, which greatly limits the political effectiveness of organized labor as a whole. An example is labor's failure to generate a strong policy position on the 2010 health care reform.[102] Meanwhile, there are signs that a few unions are beginning to focus on the large number of workers who are excluded from labor-law protection and for whom there is no employer to bargain with and who therefore require new forms of organization and representation.

Convergence and Divergence

In this chapter we have compared and contrasted the impacts of globalization and neoliberal economic policies on labor in China and the United States. We have shown that, although globalization has driven a degree of convergence of IR in these countries, the deep-rooted differences between the two countries in terms of stages of economic development, the role of the state, and the nature of trade unions have led to some divergent paths. Therefore, we reaffirm the important role of country-specific political, economic, and institutional factors in shaping the way globalization works in different national contexts.

Three key lessons can be drawn from this comparison of the Chinese and American labor movements. First, unregulated globalization and the global free market are detrimental to labor's interests in widely divergent contexts. In both countries globalization and neoliberalism have negatively affected a great many workers. Although the majority of Chinese may have benefited from globalization and marketization, neoliberal economic policies may be reaching their political

and social limits as signaled by the sharply rising number of labor disputes and protests. More important, perhaps, the positive gains of Chinese workers are to a certain extent the result of the Chinese state never fully embracing neoliberalism and maintaining a relatively strong role as a market regulator. There is still a large and strong state sector in China, and the Chinese state still heavily intervenes in IR. Labor and social unrest since the 2000s have even made the Chinese state start to reassert regulation of the workplace.

Second, autonomy is a necessary condition for unions to effectively represent workers. Unions represent a form of organized labor in which democracy plays a prominent role, including ensuring fair representation of members, providing checks and balances on power, and imposing restrictions on the misuse of privileges granted to both elected officials as well as members. American unions, despite their great decline in membership, have strong internal democracy, enjoy high autonomy, and are able to represent the interests of their members in political lobbying, contract negotiation, and grievance settlement. Their Chinese counterparts, however, are politically dependent on the Communist Party for their power and authority and economically dependent on employers for their functioning and survival.[103] This dual dependence makes Chinese unions largely ineffectual. Despite making reform efforts, without industrial democracy and autonomy, Chinese unions may never become genuine representatives of workers.

Third, union democracy is not a panacea. A strong labor movement needs not only democratic union structures and processes but also effective executive functions. In the early twentieth century, A. J. Muste noted that trade unions must be simultaneously a town hall and an army.[104] Few American unions, however, have developed a good balance of these conflicting qualities.[105] Too much focus on rank-and-file democracy may result in shortsighted policies and actions, while long-term strategic priorities that are critical for healthy and sustainable development of trade unions are overlooked. The failure of American unions in organizing is an example of this. Local unions tend to focus on providing services to existing members rather than recruiting new ones and may even resist requests or pressures from either local union leaders or national unions to implement new campaigns, which has contributed to a steady decline in membership. Similar stories have already emerged in China. In some spontaneous strikes after 2010, workers democratically elected their representatives to bargain with employers. These representatives, however, often lacked the authority to unify workers' positions or to persuade workers to accept negotiated outcomes. Therefore, for Chinese unions, although the most urgent task currently is to arrive at internal democracy and gain autonomy in representing workers, effective executive functions should also be emphasized so that a stronger labor movement can be created in the first place.

Part II

LABOR STANDARDS

3

RECOMPOSING CHINESE MIGRANT AND STATE-SECTOR WORKERS

Kevin Lin

The existing conceptualization of the Chinese working class portrays a historically dual development—the unmaking of state-sector workers and making of rural migrant workers. This is exemplified in Ching Kwan Lee's account of China's tumultuous labor history from the 1990s to early 2000s: the demise of a paternalistic labor regime for state-sector workers in the northeast "rustbelt" and the birth of a despotic labor regime for rural migrant workers in the southern "sunbelt."[1] Despite their having very different origins and trajectories, both state-sector and export-sector migrant workers have been deeply transformed in the process. Adding to this dual development, the remaking of the Chinese working class has become a key focus of a body of research that analyzes changes in workers' identities, collective mobilization, and consciousness.[2] Although these studies refer to the "Chinese working class," they often merely mean migrant workers. The omission of state-sector workers, who were at the center of China's labor restructuring, is conspicuous. They, too, have experienced enormous changes over the last decade.

In this chapter I develop the argument that there has been a remaking of state-sector workers over the last decade and that this transformation process is best understood by comparing the transformation of both migrant and state-sector workers from the early 2000s and discussing how these processes are interrelated. In order to do this, I explore the changing composition of both groups; the reorganization of labor conditions in terms of working hours, labor intensity, remuneration, and casualization; and the changing nature of labor

conflict. More emphasis will be given to state-sector workers in the discussion because their current working conditions and experiences have not been adequately researched and are less understood than those of migrant workers.

The discussion of migrant workers draws on some of the existing literature, including both the early studies of their working conditions and later research on collective actions and their implications for Chinese industrial relations.[3] I also use data from surveys conducted by the All-China Federation of Trade Unions (ACFTU) and the National Bureau of Statistics of China (NBS) to describe the macro changes. On state-sector workers, although research in the 1990s and early 2000s focused on labor restructuring and workers' resistance, very few studies have revisited the state-sector workers in the restructured and corporatized state-owned enterprises (SOEs).[4] The main data source for the state-sector workers is information collected during my fieldwork between 2010 and 2012 at five industrial SOEs where I conducted a series of interviews with workers, shop-floor supervisors, and middle-level managers. Located in four cities across North China and Western China, these SOEs were established between the late 1950s and the mid-1970s and restructured and corporatized in the late 1990s and early 2000s. These enterprises are capital-intensive producers of machineries and machine components with workforces that range in size from a few hundred to a few thousand. Despite their variations, these industrial SOEs share many similarities in their restructuring experience, workplace organization, and working conditions, so that it is possible to make some generalizations in contrasting state-sector workers with migrant workers.

Changing Composition

First and foremost, it is astonishing to see the vast change in the relative size of each group. Before China's market reform, and even in its early years, state-sector workers made up the overwhelming majority of China's urban workforce. By 2012, however, the state-sector workforce had dropped to 65 million, while in contrast there were 250 million migrant workers including 145 million cross-provincial migrants.[5] This shift has been keenly felt in the traditionally protected state-owned industries that saw waves of downsizing in the 1990s and early 2000s. The number of workers in state-owned industrial enterprises had declined to 18 million by the end of 2011 (fig. 3.1), while the numbers for domestic private and foreign-invested enterprises (FIEs), composed mostly of migrant workers, have increased in diametric proportion. Although this trend has been moderating somewhat since the global financial crisis of 2008–9, state-sector employment is likely to stabilize at the current level. The decline of state-sector

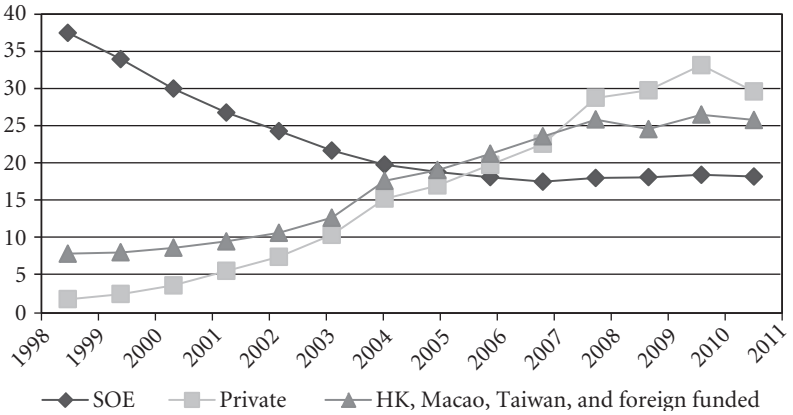

FIGURE 3.1. Number of employees in industrial enterprises by ownership (per million persons). Source: National Bureau of Statistics of China, *China Statistical Yearbook 2012* (Beijing: China Statistics Press, 2012).

employment and the rise of non-state-sector employment are the direct result of market liberalization that had diminished the weight of the state sector in the economy to make space for the growth of private and foreign-invested enterprises. Behind the numerical change lies a social and generational recomposition of migrant and state-sector workers.

Studies since the mid-2000s have highlighted the emergence of a second or new generation of migrant workers to distinguish them from the first generation.[6] The first generation were rural peasants who, pushed by rural poverty and pulled by the burgeoning urban economy, migrated to China's urban centers in the 1980s. Their city wages were meager but still higher than their rural incomes. For young women, factory work and urban life also brought a new sense of freedom and independence.[7] But the household registration system and their own rural roots meant that first-generation migrant workers have been predisposed to eventually returning to their villages.

In contrast, second-generation migrant workers are those born in the 1980s and 1990s. Estimates of their number vary. A NBS survey undertaken in 2010 categorized 58 percent of China's 145 million cross-provincial migrant workers as second-generation migrant workers.[8] Most of them, like the first-generation, have come directly from farms or small cities, but a small percentage were born or raised in cities by their first-generation migrant parents. In general, this group's link to the countryside is weaker, and they are more accustomed to urban living. In the NBS survey, when second-generation migrant workers were asked about their intention to return to the countryside, 8.1 percent said that they would "never return" and a further 37 percent said that they would "try to stay in the

cities and return only if necessary," while 22.2 percent responded that they would return if they had "earned enough money," and only 11.2 percent said they would "definitely return," with 21.5 percent undecided. The survey also found that in 2009 29.5 percent of first-generation migrant workers were engaged in farming when not working in the city, in contrast to only 10 percent for the second generation. It also found that 60 percent of the second generation lacked basic agricultural knowledge and skills and that 24 percent had never engaged in any farming.

Despite their wish and tendency to stay in the cities and their weak rural ties, these young workers face problems in the cities. In the same NBS survey, workers identified a number of issues that made their permanent residency in cities difficult, including low income (67.2%), expensive housing (63.2%), inadequate social security (24%), the need to care for their parents in the countryside (20.1%), their children's education expenses in the city (16%), a lack of a sense of belonging (13.5%), and unequal social status (7.8%). In the same survey, they mostly identify themselves as peasants and as belonging to their rural hometowns, with only a minority unequivocally seeing themselves as urban residents.[9] This weak self-identification as urban residents is arguably as much a cause as a result of the barriers they face. An ACFTU report in 2010 shows an even weaker self-identification as peasants: only 32.3 percent of second-generation migrant workers identified as peasants, and only 11.3 percent of those born in the 1990s, whereas 54.8 percent of first-generation migrants identified as peasants.[10] These migrant workers are living in a societal limbo seeing themselves as neither urban nor rural; their urban residency and youthful aspirations clash with social and institutional barriers to permanent settlement. This helps explain why second-generation migrant workers, in the process of severing links to the countryside, have not yet set down roots in the cities. They aspire to better wages to fulfill their needs and urban lifestyles. The government has been under a lot of pressure to relax regulations on urban residential status, and its current plan of increasing urbanization points toward granting more urban status to migrant workers.

During the same period and parallel to the coming of the second-generation migrant workers there was social and generational change among state-sector workers. In the early reform period, the state-sector workforce was largely unaffected and even grew in the 1980s and early 1990s. The composition of the state-sector workforce was abruptly transformed, however, following an intense period of state-sector labor restructuring in the 1990s and early 2000s. SOEs were instructed by the government in the late 1990s to significantly downsize their workforces, and consequently tens of millions of workers became unemployed. Although some subsequently found new jobs, others have remained unemployed on government allowance. The downsizing was so massive that in

2010 the state-sector workforce was still 9 million less than it had been at the beginning of the reforms in 1978, despite the massive growth of China's urban workforce.[11] This is the background for the emergence of a new generation of state-sector workers working under a new set of labor conditions.

As China's SOEs revived and started growing rapidly in the first decade of the 2000s, new workers were recruited to meet the needs of expanding production. The influx of new workers into the state-sector not only lowered the average age of state-sector workers but also created a whole new generation of state-sector workers. This new generation has come into the state sector at a time when SOEs have recovered profitability and are in the process of expansion. Despite that, these workers face more commodified and precarious labor conditions than did the earlier generation. The most significant manifestation is the shortening of labor contracts for new regular workers and the extensive use of temporary agency workers, also known as dispatch workers. In order to avoid overstaffing and to reduce labor costs, the government has restricted the recruitment of new workers, especially regular workers. The term "regular workers" refers to those who sign contracts directly with an enterprise rather than an agency, while dispatch workers sign contracts with a third-party labor agency and are then "dispatched" to workplaces. While the use of such temporary workers is not new to the state sector, as there were seasonal rural migrants working in SOEs during the Maoist era, the systematic recruitment of agency workers through a third party on dispatch contracts is new and has proliferated rapidly since the early 2000s but particularly after the implementation of the Labor Contract Law in 2008. Although SOEs tend to recruit locally, urban factory jobs are rarely the first choice of work situation for local youth. In the factories I studied, many of these new generation state-sector workers, especially agency workers, are either rural migrants or urban migrants from smaller townships or cities. According to the ACFTU, 52.6 percent of all agency workers fall into these two categories.[12]

The migrants who work in the SOEs, however, are somewhat different from those who work in the export sector. A crucial difference between them relates to their level of schooling and technical skills.[13] It is often assumed that the new-generation migrant workers are better educated, but survey results suggest a more ambiguous picture: the second generation on average have only one more year of schooling than the first generation, and only 15.4 percent of these have had a technical education.[14] The majority in both generations of migrant workers have completed only junior high school and can be categorized as either unskilled or semiskilled. Workers' educational levels necessarily differ across industries and regions, however, so that in certain industries such as capital-intensive manufacturing the second-generation migrant workers are considerably better educated.[15]

But, due to its capacity to offer higher wages and better conditions, the state sector has been able to attract better-educated and more-skilled workers. In state-owned industrial enterprises, all of the young production workers I interviewed were graduates of technical and vocational schools. Managers at these SOEs pointed out that this is now the minimum requirement for gaining employment as production workers, and they are increasingly able to recruit college graduates for office and engineering positions.[16] On the whole, the new-generation state-sector workers have more engineering knowledge and better technical skills than the migrant workers. The new-generation migrant workers in the private sector tend to be confined to low-paid blue-collar employment, while their state-sector contemporaries enjoy better wages and benefits, including workers who are migrants.

These changes also have implications for migrant workers' identities. The ACFTU's 2010 report finds that more new-generation migrant workers (32.3 %) are identifying themselves as *workers* as opposed to *peasants* than did the first generation (22 %), although the percentage increase is not dramatic.[17] As for the new generation of state-sector workers, they show little identification and affinity with Maoism or socialism, which the previous generation identified with more closely. The older generation of state-sector workers, who had grown up with Maoism and were familiar with Maoist politics and language, invoked these memories of the past during the 1990s protests against SOE restructuring.[18] But the majority of SOE production workers today are too young to have any experience with Maoism. Workers who started working in SOEs as teenagers at the end of the Mao era are at least fifty years old today. They have already been promoted into management or else were laid off, or they have retired. Ironically, the only working groups that still have a memory of Maoism are the middle and senior managers.[19]

The new-generation state-sector workers are unlikely to revive Maoist slogans, nor would they likely appeal instrumentally to socialist values by reclaiming their "masters of the state" status. While the heroic representation of state-sector workers in the Maoist era is gone, state-sector workers still possess a strong identity that they are not only "workers" but also "state-enterprise workers" and a sense of pride in their craft that is the basis of their class-identity consciousness. In comparison, a working-class identity and class consciousness, though still in its infancy, is also emerging among the second-generation migrant workers as a result of their working experience and their collective actions against employers.[20] In addition to the longer time frame necessary for the development of a working-class identity, a major barrier to forming such an identity is the limited political and civic space to operate in and the absence of independent labor organizations that can articulate workers' identities and develop their collective consciousness.

Working Conditions

The changing composition of the workforce cannot be understood separately from concurrent and often related changes in working conditions. Although the working conditions of migrant workers have been well documented, they have been less studied for state-sector workers. A common belief holds that state-sector workers work fewer hours and much less intensively. But is this true? How do their working conditions compare with those of migrant workers in privately owned enterprises? I will focus on three central aspects of work—hours, labor intensity, and wages to demonstrate the changes that have taken place for both state-sector workers and migrant workers.

HOURS

First-generation migrant workers, especially those working in the export sector, were widely known for their long working hours. But despite assumptions to the contrary, there is evidence that today's working hours are on average not much shorter. A large-scale survey by China's National Population and Family Planning Commission in 2010 found that second-generation migrant workers (39.7 %) still work nine hours a day or longer. First-generation workers (30 %), now older and occupying more senior positions, work fewer hours than the second generation.[21] In other words, migrant workers still work excessively long hours that have not changed significantly in the past twenty years. Rather, working hours in industrial SOEs have increased. The increase began in the early reform era when management was given more power.[22] But in the late 1990s and early 2000s, when SOEs were struggling to keep afloat, workers were told to work only on alternate months and given a living allowance. At that time, the problem was not long work hours but not enough work. As demand grew and production picked up over the last decade, however, SOEs increased their working hours, even including a large amount of compulsory overtime. In three out of the five SOEs I studied in my fieldwork, workers have two to four hours of compulsory overtime on weekdays; and, in all of these SOEs, workers have to work one or both days of the weekend. Many workers have only one or two days of rest a month. On average, production workers in the state sector work ten to twenty overtime hours a week in addition to their basic forty-hour work week. There are naturally some variations in the overtime arrangement, but this is the general picture found in SOEs that are enjoying good orders. SOE workers still work less than migrant workers who face twenty to thirty hours of overtime each week. China's Labor Law stipulates a maximum of nine hours of overtime a week or thirty-six hours a month, so both groups, including those in SOEs, have been subject to violations of the law in regard to being forced to work excessive overtime.

There is, however, a difference between migrant and state-sector workers' attitudes toward the overtime work. Migrant workers find overtime to be essential if they wish to earn a decent living. Chan and Siu's 2010 study of migrant workers' attitudes toward wages and overtime points to the willingness of migrant workers to take on these longer hours.[23] A company's wage structure in which the base wage is the same as or only a little higher than the government-mandated minimum makes it imperative for workers to work excessive overtime; reducing overtime hours could be seen by workers as punitive.[24] In comparison, in my interviews with production workers in SOEs, they frequently expressed their unwillingness to work overtime. This is because overtime in SOEs is generally very poorly compensated, and workers are satisfied with their wages without overtime. In other words, the wage structure helps render overtime pay less attractive for state-sector workers. Arguably, the older generation of state-sector workers would have been less willing to accept an extension of working hours, whereas those in the new generation usually only compare their conditions with those in the private sector and find them bearable.

LABOR INTENSITY

In addition to the lengthening of working hours, there has been a concurrent rise in labor intensity in the state sector. The classic image has been that migrant workers work long hours at a high level of intensity while state-sector workers work much less intensively. This image has not changed much today except that the introduction of automation might seem to have alleviated some of the drudgery. Florian Butollo has discovered, however, that for assembly-line workers in labor-intensive industries, automation can mean even greater labor intensity.[25]

Industrial SOEs are very capital intensive, and there tends to be less labor intensity in these heavy industries. But SOEs have greatly intensified production in the past decade. Workers and supervisors I interviewed reported that the high demand for industrial goods has put increased pressure to speed up production so that management keeps revising targets upward. For example, at one SOE workshop in Hebei Province that produces electrical motors, workers recalled that only a few years earlier they produced only 30 to 40 sets of motors each month but by 2008 the monthly quota had grown to 340 to 360 sets. At the time of my interview in 2011, the quota had further risen to 430 sets per month. This represents more than tenfold growth. At another workshop in the same SOE, the monthly production quota increased from 180 to 220 sets and 10 to 300 sets in just a few years' time. One supervisor who has worked at the same SOE for two decades said that in his workshop the work formerly done by ten workers is now done by three. This may be a slight exaggeration, but it illustrates a real increase

in the workload. This situation is also fairly representative of the other SOEs in my research.

In addition to the intensification of labor, mechanization and automation have also contributed to increasing productivity. The government has emphasized industrial upgrading, and SOEs have made substantial investments in mechanization and automation out of retained profits. For example, one SOE specializing in producing high-precision machine components has spent hundreds of millions of yuan to upgrade their production with sophisticated machines from abroad. Consequently, technological upgrading has eliminated not only some of the heavy and intensive manual labor but also labor in general. Such upgrading has, so far, been rolled out unevenly across SOEs or even within various workshops of the same SOE.

The export sector has continued to intensively exploit labor. Because of rising wages and labor shortages there is also incentive to invest in automation. Chinese companies are now the main consumers of European and Japanese industrial robotics and machine tools.[26] For the immediate future, however, the costs of such sophisticated automation will remain prohibitive for small and medium enterprises, and migrant workers could easily remain ensnared in labor-intensive employment for many years to come.

Automation could also de-skill and erode the power of skilled workers (described by Butollo in chapter 4 of this book). As computerized machines replace manual machines, computer skills will be increasingly privileged over manual skills. Whereas it took years for workers to learn to handle particular machines, young workers with computer literacy can more quickly acquire the necessary skills for computerization. At the moment, this is to the benefit of young state-sector workers. In the longer term, however, such a rapid process of skills acquisition has the potential to make workers highly interchangeable, thereby opening the door for further casualization of labor.

Shop-floor relations have also had an impact on labor intensity. In the export sector, migrant workers suffer from a despotic labor regime that strictly regulates their work.[27] In the state sector, based on my observations on the shop floor, the situation is much less repressive. It is common to see workers taking breaks to smoke, drink tea, and chat with coworkers, which is allowed by supervisors as long as it does not seriously affect production. Although this does not mean that disciplinary measures do not exist there, supervision on the shop floor is not as coercive in SOEs as in private companies. Shop-floor relations in SOEs are still built on personal relationships forged over long years. Informal bargaining over workload and speed still goes on between workers and their supervisors, who may have developed friendships after long years of working together. This is in part a continuation of the paternalistic regime under Mao. The production

process of capital-intensive industries also contributes to a less-disciplinarian labor regime. Workers operate machineries at individual workstations that allow them to have a generally high degree of control over the production process, and this helps develop mutually dependent relations on the shop floor. Therefore, although production has been intensified in the state sector, automation along with personal and interdependent workplace relations have reduced the degree of this intensification.

WAGES

As imprecise as the government statistics are, they offer a useful picture of wage trends. According to the NBS, average annual wages have increased steadily for employees across all types of factory ownership throughout the first decade of 2000s (fig. 3.2). The highest average wage is found in foreign-funded firms (such as Japanese, Korean, US, and European), followed by SOEs, joint ventures, and Asian-funded firms (e.g. , Hong Kong, Taiwan, and Macao) that employ the most migrant workers. It is notable that wages in Asian-funded firms have been on the rise at a similar rate as those in firms of other ownership types, yet they have remained the second lowest after those of joint ventures.

The Chinese government has been raising the mandated minimum wage continuously each year at a double-digit rate. At the same time, second-generation migrant workers have become more assertive and ready to strike for higher wages. Employers, too, have raised wages to attract and retain skilled workers

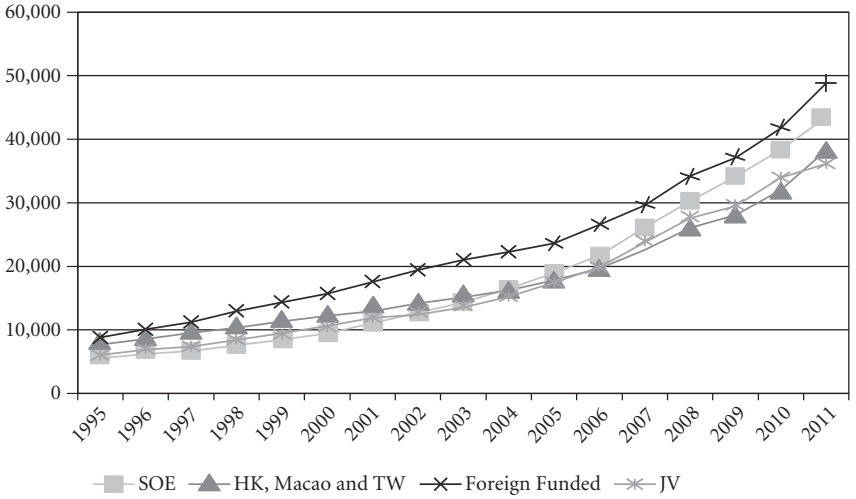

FIGURE 3.2. Average annual wage of employees in enterprises by ownership (CNY). Source: National Bureau of Statistics of China, *China Statistical Yearbook 2012* (Beijing: China Statistics Press, 2012).

as they come under more pressure from changing demographics that has led to a decrease in the supply of cheap labor. But the wage raises are partly offset by large increase in the cost of living in the last decade. Wages were low in the state sector in the first two decades of the reform. They were lower than those in Asian-funded firms in the 1990s, and many young and skilled workers left SOEs for better-paid jobs in the private sector. The revival of SOEs has seen wage growth, and by the mid-2000s wages in the state sector surpassed those of migrant workers. Because state-sector workers put in much less overtime, their hourly earnings are in fact much higher. But wages are uneven across industries. In the steel and chemical industries, for example, wages have remained low and have led to workers' protests.[28] In all of the sampled SOEs in my fieldwork, however, wages have been raising. Moreover, to supplement the more strictly regulated wages, SOE management has been regularly distributing bonuses to all employees for raising output and increasing profits.[29] The bonuses can be quite large. One SOE in Shaanxi Province distributed bonuses of several thousands of RMB three times in the year I visited. In the other SOEs I studied, they use seasonal and end-of-year bonuses to compensate for high labor intensity and long working hours to secure workers' cooperation and loyalty.

One reason that management chooses to distribute bonuses instead of increasing base wages is because the total wage bill of central SOEs is regulated by the State-Owned Asset Supervision and Administration Committee (SASAC), though management still has control over retained profits. As SOEs are making record-level profits, workers' incomes have been consistently higher than the local prevailing wage. Consequently, wages have not been the main issue for state-sector workers. The wage differentials between production and office workers in SOEs are also small, but the high wages and end-of-year bonuses awarded to senior managers are a source of workers' dissatisfaction. For migrant workers, in comparison, wages are dictated much more directly by the official minimum wage, the labor market, and employers. The government-mandated wage floor is too low for the majority of them to earn a decent wage. So they have to take matters into their own hands to strike for better wages and entitlements.

The higher wages of state-sector employees are, however, not entirely secure. Although the state sector was shielded from the global financial crisis in 2008–9, since then the economy has been slowing down. According to the Ministry of Finance, overall SOE profits declined by 5.8 percent in 2012 compared to the previous year, a drop of 15.8 percent and 0.4 percent for local and central SOEs, respectively.[30] SOE managers in a machinery factory in late 2012, while optimistic about the future, conceded that production had not expanded much in the previous two years due to economic slowdown. With the deceleration of economic growth, this trend may continue. Nevertheless, SOE profits as a whole

have remained high, and the small decline may not have an immediate impact on wages.

In this discussion of work hours, labor intensity, and wages I am trying to capture the general direction of change. Work hours—always long for migrant workers—have also been considerably extended for state-sector workers and so has labor intensity. The lack of union protection exposes all workers to managerial control and market despotism to a certain extent. And while both migrant and state-sector workers are witnessing wage growth, the dynamics of these two processes are quite different.

Casualization

Another trend common to both migrant and state-sector workers is the casualization of labor.[31] Migrant labor is the embodiment of casualized labor. For more than a decade, most migrants worked without ever seeing a labor contract and could be dismissed at will. Even today, many workers in small firms in the informal sector still do not have a contract and lack any form of employment protection. These precarious conditions lead to workers regularly taking "short-term employment."[32] It has been customary, even expected, that migrant workers will work only for a few months to a couple of years in any given job. The turnover rate, therefore, is usually very high. They drift from one job to another often within a couple of years if not months, remaining stuck in low-skilled, low-wage jobs.[33] Frequent movements between jobs and between the city and the countryside might have been more acceptable for the first generation of migrant workers, but the new generation is much more frustrated.

Casualization has affected the state sector, too. State-sector workers used to have much more secure and formalized employment. Over a period of more than two decades, labor relations have been marketized with the intention of eroding workers' welfare and power. Labor contacts were formally introduced in the mid-1980s, although for most of the 1980s and 1990s, state-sector workers' employment remained well protected. Since labor restructuring began in the late 1990s, SOEs have taken further steps to casualize employment to reduce their obligations and responsibilities. This is achieved by systematically employing agency workers in previously permanent positions. Management essentially uses these dispatch workers to replace laid-off and retiring regular workers. Their numbers in SOEs has skyrocketed in the last decade and particularly after the introduction of the Labor Contract Law that went into effect in 2008, although ironically it was designed to contain this new tendency. Estimates by the ACFTU and the Ministry of Social Security put the number of dispatch workers in China

at between thirty-seven and sixty million in 2011.[34] According to the ACFTU, 16.2 percent (or about six million) of the thirty-seven million agency workers in China are employed in SOEs and 14 percent in Asian-funded firms.[35] In my sample of SOEs, an average of 20 to 30 percent of the workforce were agency workers, constituting the majority of workers on the shop floor. The proportion is even higher in some state-owned nonindustrial SOEs. According to a 2010 ACFTU report, in Anhui and Shanxi Provinces, more than 60 percent of the workforce in some big state companies such as China Post, China Mobile, and Sinopec are agency workers, with an astonishing 71.2 percent for China Mobile.[36]

The state-sector workforce has always been segmented into core workers and temporary workers, who were migrant peasants during the Maoist era. But casualization since the 1980s has commodified labor and eroded employment security for both regular workers and temporary workers. The two groupings of workers have different wage scales and benefits, even though they often perform similar kinds of work alongside each other.[37] Even though they officially have temporary status, many of the agency workers have been employed continuously for many years, just without the benefits of permanent employees. They are becoming permanent temporary workers. This practice has drawn severe criticism and led to labor disputes.[38] The ACFTU has been taking the lead in putting the issue on the agenda of social problems to be resolved. After repeated delays, the Labor Contract Law was finally amended at the end of 2012 and became effective in July 2013.[39] The amendment is supposed to better regulate and reduce the use of temporary agency labor, but in effect it merely reaffirms what was already regulated in the original law. The main problem has been the lack of effective implementation rather than the law itself.

Changing Trends in Labor Conflict

The level and nature of labor conflict have changed in the process of recomposing migrant and state-sector work, and here the divergence in behavior between the two groups is stark. The late 1990s and early 2000s were marked by the contrasting images of militant state-sector workers led by laid-off workers opposed to SOE restructuring and largely docile migrant workers enduring exploitation under sweatshop conditions with occasional protests. But the situation has reversed in the last decade. A 2012 *China Labour Bulletin* report that tracked workers' protests between 2000 and 2010 clearly identifies the new trend: the number of protests by state-sector workers has declined sharply compared to those by non-state-sector workers, a decrease from more than 80 percent of all protests to only 20 percent in a decade.[40] The decline of

state-sector workers' protests follows the end of the most intense period of restructuring and is likely a result of the much smaller share the state sector has in China's urban workforce. Over the same period, the number of protests by migrant workers in the private sector has grown significantly. The celebrated Honda auto parts workers' strikes in mid-2010 epitomized the escalating struggle by migrant workers, but the long-term trend had already become evident by the mid-2000s.[41]

The nature of labor conflict is also shifting. Studies since the mid-2010s have referred to a transition from rights-based to interest-based protests among migrant workers.[42] Although migrant workers still protest to defend their basic labor rights, increasingly better wages and conditions as well as more democratic representation have become the focus of their protests and strikes. They are more proactive in organizing collective actions in support of their interests. But the nature of labor conflict for state-sector workers is also showing signs of change. The previous generation of state-sector workers primarily fought to defend their jobs and entitlements, but the dismantling of the welfare regime in SOEs means that there is now not a great deal left to defend. Labor restructuring in the state sector has produced new sources of contention. Crucially, the extensive use of agency workers and the resulting two-tier workforce with differentiated wages, bonuses, and employment security is generating discontent among state-sector workers. In addition to state-sector workers' protests in the steel and chemical plants mentioned earlier, some protests have broken out against converting existing long-term contract workers into agency workers. The agency workers for their part are beginning to voice their dissatisfaction about their employment status and low and unequal pay and benefits. When I visited an SOE in Shaanxi Province in 2012, I found the young agency workers were negotiating with management to raise their wages, which were barely above the local minimum wage. Such cases that fall short of bursting into open confrontation are usually not reported in the media, and thus they go largely unnoticed. But it is clear that agency workers are not satisfied with their insecure and unequal conditions, and the overwhelming support for tightening regulation on the use of agency labor reflects this dissatisfaction.

How do we explain this reversal of behavior? The mechanism and degree of state regulation and intervention need to be taken into account. In export-sector firms, labor and employment relations are loosely regulated by the state and dictated by employers. Workers have limited means to negotiate. The state either refuses to help, suppresses workers' protests, or at best intervenes by persuading employers to make concessions. But such interventions have only fuelled more protests because workers have found it to be the most effective action to provoke the authorities to do something. To prevent such conflict from arising in the first

place, the state has moved to reform workplace unions and promote collective bargaining. While the reforms are very limited, it represents a positive response to workers' emerging collective power.

The state sector is much more closely regulated at the workplace level by comparison. To be sure, SOEs are not now as directly controlled by the state as they were under Mao, but management still tends to comply with the Labor Law when signing employment contracts, setting wages levels, and contributing to workers' benefits such as social security and employment security. Such regulations help mitigate exploitative labor relations. The agency workers do not enjoy all these benefits; but their wages, benefits, and work conditions are still on the whole better than those of many migrant workers in the export sector. In addition, the fact that senior managers, as political appointees, are evaluated on their economic as well as political performance makes it imperative for them to balance labor stability against profit maximization. The senior managers, having worked in the same SOE for two to three decades, see themselves not simply as capitalist managers but as parental figures in the "factory family," taking care of workers' needs rather than simply exploiting them. Such paternalism persists even in privatized SOEs, and it is certainly still strongly felt in SOEs.[43]

Recomposing the Chinese Working Class

By comparing changes in the working conditions of migrant and state-sector workers over the last decade, I have sought to reveal the underlying dynamics in the process of working-class recomposition. In regard to changing labor composition and workplace characteristics, we have seen both convergence in terms of work hours and labor intensity and divergence in the case of labor conflicts in the process of recomposition of the working class. Significantly, recomposition has been shaped by the defeat of state-sector workers in their waves of protest, while migrant workers are rising in number and strength. In spite of collective actions that reveal their associational power, however, migrant workers are denied the right to form labor organizations, and thus their collective actions tend to be isolated local events. They are unable to coalesce and concentrate their strength beyond the workplace to defend against their vulnerable labor market position. This helps explain why, despite real-wage gains, migrant workers have not been able to fully translate their strength into better working conditions. For state-sector workers, although their collective resistance has subsided following corporatization, they are nevertheless able to see wage gains due to their skills and structural power arising from the strategic importance of their industries and the monopolistic positions of many SOEs.

Is it possible to envisage a more homogenous working class in China? China's labor market and employment relations are highly segmented, and ownership—not to mention variations in industries, regions, and the *hukou* household registration system—still divide the working class. Old differences are yet to be erased, and new distinctions are already being created. But central to the process of recomposition is casualization, which has come to characterize workers in both the state sector and export sector. Millions of agency or dispatch workers are now employed by SOEs. Although the conditions of these workers still differ from those of migrant workers in terms of wages, employment security, and in many cases residential status, casualization is increasingly leveling these differences. This is making the distinction between migrant workers in the export sector and many workers in the state sector less dichotomous than it appears, and it points to the remaking of the Chinese working class as an interconnected process.

4

INDUSTRIAL UPGRADING AND WORK

The Impact of Industrial Transformation on Labor in Guangdong's Garment and IT Industries

Florian Butollo

Will "cheap labor" soon be a phenomenon of the past in Guangdong Province? This is at least what several commentators suggested after workers launched a series of fairly successful wage strikes in the automotive industry in the summer of 2010.[1] This view also seems to be vindicated by the stance of the Communist Party of China leadership since the middle of the 2000s. On the national level, the central government pushes to raise domestic demand through higher mass incomes in order to rebalance the economy. In Guangdong, the provincial government is stressing the need for structural transformation by moving beyond low-tech, labor-intensive production and toward technology-intensive sectors. Wang Yang, the former secretary of the Guangdong Communist Party, summarized this line in a controversial metaphor when he said that it was time to "open the bird cages for new birds to settle down."[2] This implied no less than a sweeping replacement of those low-end industries on which economic growth had relied in the past three decades with high-end industries. In his view, the economic crisis that had hit Guangdong's low-end export sector particularly badly presented a favorable "opportunity to shift the industrial structure."[3]

Taken at face value, such proclamations give the impression that scholars of labor in Guangdong are about to lose their subject. After all, the main focus, and merit, of the past two decades of research has been highlighting the exploitation of migrant workers from China's interior provinces in world market factories in coastal regions.[4] But, in reality, the picture is much more complicated. First, government practice at central and local levels is full of contradictions. As local

authorities' interests are often intertwined with those of employers in low-end industries, the former, time and again, have backed down from confronting the latter.[5] The economic crisis of 2008–9 also has not resulted in a thorough structural change in the region, because much of the crisis recovery depended on a resurgence of growth in Guangdong's low-end export industries. Second, and most important, it cannot be taken for granted that a modernization of industries automatically implies a rupture with the exploitative patterns of work that have shaped the region's economic boom during the last decades. The development of electronics contract manufacturing, in which cutting-edge technologies are combined with the widespread exploitation of cheap migrant labor, shows that a high-tech industry can have a low-tech, labor-intensive component.[6]

In this chapter I further investigate the changing patterns of work in Guangdong Province by asking whether the recent patterns of industrial upgrading have led to qualitative improvements regarding employment patterns, skill levels, wages, and general working conditions. The investigation takes into account the variety of upgrading patterns within and across industries and compares developments in the garment and IT industries based on data obtained from field research in 2010 and 2011.

Debates on the Relationship between Industrial and Social Upgrading

In mainstream discourse, economic progress is often directly identified with an improvement in working conditions. As Barrientos, Gereffi, and Rossi write, "it is often implicitly assumed that economic upgrading in GPNs [global production networks] will automatically translate into social upgrading through better wages and working conditions."[7] Such notions are not only rooted in mechanical notions about stages of development as found in modernization theory,[8] but they also reflect past experiences of firms in East Asian newly industrialized countries that transformed rapidly from low-cost manufacturing to more advanced, and higher paying, enterprises.[9] Beyond these implicit notions, however, there exists a gap in terms of knowledge about the relation between industrial (or economic) upgrading and "social upgrading."[10] As Staritz, Gereffi, and Cattaneo write, "the upgrading debate has largely focused on economic upgrading and has not specifically taken into account social upgrading understood as improved working conditions, higher-skilled and better paid jobs. Economic and social dimensions of upgrading are often intertwined, but one does not necessarily lead to the other. In fact, we understand relatively little about the conditions under which they occur together."[11] This blind spot is also partly due to the barriers

between disciplines: while economic sociologists have focused on tracking the technological and organizational patterns of industrial change without taking into account their implications for labor relations, labor scholars and NGOs have rarely systematically addressed the role of industrial transformation on changes in labor relations.[12]

Fortunately, the relationship between economic and social upgrading has been receiving more attention in the academic community since the beginning of the decade.[13] A major research project entitled "Capturing the Gains," undertaken in a partnership between various academic researchers and the International Labor Organization, is devoted to exploring under what circumstances economic upgrading translates into improvements in working conditions.[14] A corresponding framework by Barrientos, Gereffi, and Rossi traces possible gains for workers in a progression of industries from small-scale household work (associated with very early stages of export-led industrialization) to technology- or knowledge-intensive work (associated with the IT and service sectors). When such a development sets in, a situation of higher-skilled work under better overall conditions may arise. There is no linear correlation, however, between a growing sophistication of products, processes, and functions and working conditions. In particular, Barrientos, Gereffi, and Rossi point to "competing pressures" in GPNs. On the one hand, these provide incentives for a "high road" of transformation based on a more stable, skilled, and formalized workforce, but, on the other hand, they also induce cost constraints that may lead to a "low road" that may depress labor standards. In effect, industrial transformation leads to mixed results—for example, by a bifurcation into regular skilled work and less-skilled contract work.[15]

Such an approach provides a useful starting point for an empirical analysis of industrial upgrading processes. The assumption of possible high and low roads of social upgrading needs, however, to be complemented by insights from industrial sociology in order to identify the mechanisms by which technological changes may or may not lead to improvements in the patterns of work. I will draw on the concept of "regimes of production" as developed by Lüthje, Luo, and Zhang for the analysis of economic and social conditions in China's core industries.[16] The concept integrates data on industry-specific production models and the peculiar institutional context of Chinese industrial development (labor markets, legal regulations, etc.) to analyze the respective patterns of work. By highlighting the relationship between industry-specific production models and working conditions, the concept provides a useful perspective for discussing the relationship between technological change and social upgrading.

By comparing upgrading experiences in the garment and IT industries, I also explore to what extent differing paths of industrial transformation lead to

divergent results regarding social upgrading in the Chinese context. Because "industrial upgrading" has become a buzzword in political discourse and often lacks a precise definition, it is essential to be aware of the multiplicity of strategies employed. This is underlined by an ambiguity regarding the use of the term in political discussions in Guangdong. While Wang Yang's statement about the necessity to "exchange birds" implies a replacement of old industries with new ones, he also declared that there were no "sunrise or sunset industries,"[17] which is supposed to mean that there is a chance for transformation in any industry, even for those with low-end labor-intensive production.

In order to reach a more rigorous understanding, I start from a more general notion about industrial upgrading that has been proposed by Dieter Ernst, according to which the "main objective is to exploit the productivity-enhancing potential of innovation, in order to avoid a race to the bottom that is driven solely by cost competition."[18] This definition avoids narrowing our understanding to some specific forms of transformation such as the change of the production model from "original-equipment manufacturing" (OEM) suppliers to "own-brand manufacturing" (OBM) (also generally referred to as "moving up the value chain").[19] Such an understanding neglects the fact that industrial upgrading often takes on the form of incremental innovation within existing structures rather than a full-scale change of production models.[20]

Starting from such a general perspective on industrial upgrading, it is useful to identify certain common patterns for the sake of comparison. I draw on a typology developed by Humphrey and Schmitz who distinguish among the following:

1. Functional upgrading whereby an improvement in the position of firms would result from increasing the range of functions performed—for example, from simple assembly tasks to a broader range of activities. One special case of this strategy would be an own-brand strategy in which manufacturers or wholesalers would distribute products under their own brand name.
2. Process upgrading that yields efficiency gains by reorganizing the production system or introducing new technologies.
3. Product upgrading by which more sophisticated products can be sold at higher unit prices.
4. Interchain upgrading that takes place when companies make use of their prior manufacturing experience when moving to technologically more sophisticated sectors or subsectors.[21]

It is important to note that these approaches are not mutually exclusive. Brand building, for instance, necessarily rests on product upgrading and often on some

forms of process upgrading. As strategies overlap, this typology serves as an instrument to identify the specific mix of upgrading approaches at a cluster or company level.[22]

Research Method

I chose samples from the garment and IT industries for comparison because they paradigmatically represent the old and the new birds in Wang Yang's metaphor. The garment industry was among the first to take off when China opened to foreign investors in the 1980s; mass production in the IT industry is a comparatively more recent phenomenon. Foreign direct investment poured into the Guangdong region from the mid-1990s onward and especially after a wave of global restructuring following the global crisis in 2000–2001. The development of manufacturing and the improvement of R & D capabilities in this field rank high in both the Guangdong and national governments' development plans.

Despite significant differences regarding the respective regimes of production in both industries, the widespread exploitation of low-paid migrant labor constitutes a common ground.[23] Therefore, a comparison of the impact of respective upgrading trajectories seems promising. By this means, differences and similarities can be identified that allow us to draw general conclusions regarding the relationship between industrial upgrading and work in Guangdong's low-wage industries.

The relationship between industrial upgrading and work can best be studied by focusing on the "vanguard"— that is, clusters and subsectors that have developed particularly rapidly. I chose to focus on two prominent garment clusters located in townships within Dongguan city where the government proactively promotes the transformation of the industrial base. For the IT industry, given the sector's huge diversity, I chose to focus my research on the light-emitting diode (LED) lighting industry as a prime example of a truly "new bird." National, provincial, and local governments have been energetically supporting this dynamic industry for which high growth rates are projected. The sampled LED lighting companies are located in the cities of Shenzhen, Guangzhou, and Foshan. Whereas technologies and production methods in this LED industry show certain variations that will be discussed later, developments in this subsector also reflect the typical dynamics in other vertically disintegrated subsectors of the IT industry.

The following synopses are based on forty-seven interviews I conducted during my field trips to the Pearl River Delta in the autumns of 2010 and 2011. All ten companies are privately owned, mostly by mainland Chinese entrepreneurs.

Only the two most technologically sophisticated companies in the field of LED production and knitting are owned by Hong Kong entrepreneurs, whose investment had been encouraged by the respective local governments.[24] The overall choice of the research sample was directed by an attempt to understand the efforts of Chinese-owned companies to improve their technological capabilities and overall competitiveness.

The data primarily consists of information provided by management staff supplemented by shop-floor visits, close observations of labor processes, and occasional communication with workers.[25] Additional data, and a chance for triangulation of key information, was gained by interviews with machine producers and vendors, local government officials, local industry associations (LED),[26] labor NGOs, and an extensive review of the academic literature on the respective labor processes.[27]

The research questions concerned two levels of analysis: first, to understand the main orientation of the respective upgrading strategies, and second, to investigate how far these changes had an impact in the composition of the workforce, organization of work, wage systems, and general working conditions. Special attention was given to the issue of skill requirements and training. As Barrientos, Gereffi, and Rossi write, "GPNs are constituted by a mix of activities that require combinations of labor-intensive, low-skilled activities with knowledge- and technology-intensive higher-skilled activities. Different types of GPNs are likely to be composed of different ratios of both low-skill and high-skill production, therefore requiring different typologies of work."[28]

In order to assess the effects of upgrading on work on a company basis it is therefore critical to analyze how the respective mixes work out on the factory level: To what extent do modifications of production techniques rely on higher skills? If they do, how are these skills distributed across the workforce? And, most important: Do modified skill requirements also result in more stable employment patterns, higher incomes, and improved working conditions? A second set of indicators concerns workers' wages and wage systems: Is there a rise in income for certain groups of workers? How big are the wage differentials? Have technological changes affected wage systems such as changing piece rates to time rates? How does this benefit or disadvantage workers?[29] How do wage systems affect the amount of overtime hours?

The Garment Industry

The rapid industrialization of the Pearl River Delta began with the relocation of thousands of garment enterprises to the region. From the 1980s on there was

a rapid influx of investment from overseas Chinese capital, first and foremost from Hong Kong. The structure of the industry thus changed from one based on township-and-village enterprises and state-owned enterprises toward one that is dominated by foreign private capital. By 2008 the textile and garment industry was the biggest industrial subsector by employment in China, with 4.59 million employees, of whom 2.09 were employed in garment factories.[30] The industry is characterized by a labor-intensive organization of production based on the widespread exploitation of migrant workers. Accordingly, a "low-wage classic" regime of production prevails, as constructed by Boy Lüthje (chapter 1 of this book), characterized by low technological standards, low functional diversity, and highly flexible models of production. Management usually exercises direct and strict control over workers. Employment, working hours, and wages are highly flexible. Wages are usually paid according to piece-rate schemes. As the methods of wage calculation often remain obscure to workers, underpayment and sometimes even paying less than the local minimum wage are common problems. Excessive overtime hours are also endemic, as it often is the only way for workers to make up for their meager base wages.

In two decades the industry has undergone continuous transformation. While private companies in the early period exclusively performed assembly activities in which all specifications about the products as well as most of the supply-chain management remained with the buyers, they have come to offer more comprehensive production services. Production according to OEM and especially original-design manufacturing models leaves key functions of supply-chain management and design with the suppliers and thus allows them to expand their range in value-added functions.[31] A strong fragmentation of production chains persists, however, and large vertically integrated enterprises are rare. Although the growing sophistication of production models requires more capital investment—for example, in new machines or marketing activities—the subsector remains labor intensive and dominated by small and medium-sized companies.[32]

Rising prices of land, raw materials, and labor as well as the relative cost increases of Chinese products resulting from the appreciation of the renminbi (RMB) are additional pressures on companies to upgrade. These pressures came to a head during the sudden slump in foreign demand in late 2008 that all over China led to the bankruptcy of thousands of labor-intensive enterprises that were operating on low profit margins, especially in the Pearl River Delta region.[33] The phasing out of the Multifibre Arrangement, generally referred to as the MFA, in 2005, however, and the rapid expansion of the domestic market for garment products has presented new growth opportunities.[34] The growing domestic market also provided an incentive for Chinese producers to establish

own-brand products.[35] Growth prospects brightened as of late 2009 because of a renewed surge in foreign demand. Still, a fragile world economy and rising production costs remain challenges for local industries.

The government is playing an active role in supporting industrial upgrading but in a selective way. Although low-end manufacturers are at times discouraged from staying in the region, there are significant efforts to promote higher value-added activities in garment manufacturing. This is mostly taking place in individual townships because the promotion of specialized towns is seen as a means to rationalize the formerly chaotic growth patterns and to promote productive interactions and knowledge transfers between companies.[36] In Guangdong's garment clusters there is a proactive industrial policy that tries to orchestrate growth according to specific development plans. Special attention is given to improving logistics and marketing, and publicly funded institutions ("technology innovation centers") that assist companies to acquire advanced capability in production and design have been set up.

Case Study 1: Process Upgrading in the Knitwear Industry

The knitwear industry is undergoing a major transformation in its production techniques that entail major changes in the character of work. The case study was conducted in the town of Dalang with some 3,500 knitwear enterprises, the majority of which (86% in 2009) are owned by mainland Chinese entrepreneurs. The local government supports the introduction of modern production techniques mainly by subsidizing the acquisition of "computer numerical control" (CNC) knitting machines at RMB2,000 per piece (about 0.4–1% of the total price). It also emphasizes brand building, which, so far, has had only limited success. In late 2011 no national or regional Chinese knitwear brand had emerged, and 60 percent of the knitwear is sold as either OEM or original-design manufacturing products destined for foreign brands in the international market. Some suppliers to foreign companies in this case study, however, have begun to produce own-brand products for the domestic market on a small scale as a supplement to their regular sales. The local government also supports investment of CNC machine producers and traders in the town and promotes logistics and trade through the creation of a local brand label and a massive trade fair hosted in a newly erected wholesale market.

At the surveyed companies some demand for higher-skilled work is being created at the level of product development (i.e., fashion design), given that a substantial proportion of sales come from using an original-design manufacturing model. The growing importance of fashion design in garment manufacturing creates a demand for a new layer consisting of more highly skilled workers,

who also receive considerably higher wages than line workers. But designers only make up 1–2 percent of the workforce. Even so, fashion-design skills promise to offer further functional diversification of the knitwear cluster and progress toward higher value-added production.

The manufacturing process consists mainly of knitting (producing the flat pieces of knitwear churned out by the machines), linking (connecting these pieces to produce garment pieces), and finishing (attaching accessories and labels, packaging). Automation in linking and finishing is perceived to be difficult and costly, and therefore process innovation through sophisticated machines affects only the knitting process. Between 2007 and 2010, some ten thousand CNC knitwear machines were installed in the cluster. This has led to a substantial reduction in the size of the workforce. According to data provided by the local government, the workforce in local knitwear companies has been reduced by 40,000 employees since 2007 to about 100,000 in 2011. Drastic reductions have also taken place in the two companies I investigated during the same period, one from 5,000 to 1,000 and another from 1,500 to 300.[37] Based on this data it can be estimated that the surveyed companies could save roughly one-third of their labor costs through automation.[38] At the same time, the capital requirements for knitting enterprises have risen. CNC knitting machines currently cost between RMB100,000 (Chinese models) and RMB550,000 (high-end imported machines) per piece, which imposes great financial pressures on the companies. One large manufacturer, for instance, expected to refinance its investment within three years but now admits that this will be barely possible even in ten years because sales (especially of the company's own-brand product line) did not meet expectations.

Automation has led to a profound transformation of the labor process in the knitting departments of the surveyed companies. The fully automated machines usually operate round the clock. Besides higher productivity, the machines allow for greater versatility of styles and higher quality. They also allow for an easy digital linkage between "computer-aided design" and production. Whereas, in the past, one worker controlled one semiautomated machine, operators in modernized factories control eight machines at a time on average. The work environment is clean, modern, and air-conditioned. Work does not appear to be physically exhausting, but it has become very repetitive, and the simultaneous operation of dozens of machines increases the noise level on the shop floor. Also, as with the older machines, workers still have to stand upright much of the day; and having to tend to several machines at the same time and to react quickly to correct errors creates stress during peak production periods.

Moreover, the introduction of CNC machines has led to the de-skilling of knitting workers, who are virtually bypassed in terms of the cognitive content of

work because the designers can upload product styles directly to the machines from USB flash drives. A knitting worker's task is thereby limited to controlling the yarn supply and to troubleshooting. The machines automatically control the speed, style, and tension of the knitted items—functions that used to be left to workers' skills in the semiautomated process. Tasks of steering and maintaining the machines are delegated to specialists external to the factory workforce.

Because the upgraded knitting process does not require a high level of skill, the wage levels for this group of workers can be kept rather low. At the largest sampled factory the average wage of a knitter was RMB2,300 per month in 2011, and an experienced knitter could earn up to RMB3,000. The factory manager said that "if one makes a direct comparison between the wages of manual knitters and knitting machine operators, the latter earn roughly the same, maybe 10 percent more."[39] Interestingly, the surveyed companies still remunerate their workers based on a piece-rate system, although the speed of the entire production system now is determined by the machines not the productivity of the workers.[40] As the factory manager of the biggest company in the cluster explained, this is a deliberate decision. He said that "if we pay only hourly wages, the workers would fall asleep." Instead, workers are given an incentive by encouraging them to control more machines at the same time (fourteen in the case of one prime worker). For the workers, managing so many machines is one way of raising their piece-rate wage. In this sense there is still some relationship between skills used— that is, coordinating the operation of as many machines as possible simultaneously—and wage levels.[41] Management's main objective here is control: the piece-rate system is artificially sustained, despite the automatic rhythms of the machines, to extract maximum effort from the workforce. For the company it also means hiring fewer workers and increasing profits.

The failure of social upgrading through upgrading of the knitting process becomes particularly clear in comparison to the linking process, performed in the same factories. Old-fashioned mechanical machines are used to connect the knitwear pieces. Because the shape, and therefore the quality, of the final products critically depends on the abilities of the workers, these workers need to have a high degree of concentration and skill. Workers in this section are harder to train. It takes at least three months to introduce them to the job, and companies prefer to recruit very experienced workers. Accordingly, the wages of linking workers are higher. On average, they earn 10 to 30 percent more than knitting workers, and experienced linkers can earn up to double the amount of an average knitting worker.

A final observation regarding the pattern of industrial transformation in the knitwear industry concerns the relocation of production facilities. Both investigated companies are ramping up capacities in interior provinces or are

planning to do so. Knitwear companies are outsourcing their labor-intensive production facilities to cheaper areas (Guangxi and Sichuan in these cases), while headquarters, design, marketing, and high-quality production remain in Guangdong. This strategy is being implemented as a reaction to labor shortages in Guangdong where demand of companies for employees chronically outstrips supply since the middle of the 2000s due to the high overall growth rates of industries.

Case Study 2: Functional Upgrading through Brand Building

My second case study focuses on a cluster that has a high profile in the fashion industry. Because of its proximity to Hong Kong and to port facilities, the town of Humen has been a popular site for Hong Kong–based investment since the early 1980s. Today, the garment sector dominates the industrial structure with over 2,000 mostly small and medium-sized enterprises, predominantly under local Chinese ownership. The upgrading strategies in these factories, which primarily produce sewn garments, differ from those in the knitwear industry. The government's focus here is on the creation of local fashion brands. The strategy is part of a general development strategy of advancing to a "commercial era." The town is supposed to become a main trading hub for fashion products in China and is striving to gain a higher share of income through a modern service sector. The local government supports these aims by setting up an institution for brand building, the Fashion Technology Information Center,[42] and it has invested heavily in infrastructure and logistics development, which has resulted in one high-profile and several prominent national brands in the town. Notably, unlike the neighboring knitwear cluster, most products manufactured in this town are sold domestically.

Creating local fashion brands can potentially emancipate Chinese manufacturers from merely being suppliers to foreign companies; this will enable them to profit from the dynamic growth of China's domestic market. The companies create brand labels through developing design capacities, funding marketing campaigns, and setting up sales channels—for example, in the form of franchise stores. The biggest brand in the cluster is pioneering this road and serves as a shining example for the rest. In 2011 it had over 5,500 franchise stores all over China, more than 35,000 direct employees, and twenty-nine factories that are mostly located in the area. This new approach affords high capital investment and the hiring of highly skilled management, marketing, and design staff.[43] In two of the four companies for which data were available, these functions accounted for about 20 percent of the workforce, not including salespersons in franchise stores.

Brand building, however, has had mixed results on the surveyed companies' production processes. In three of the four companies the changed business models did not have any major effect on the organization of production.[44] The reluctance on the part of some companies to engage in process upgrading has to do with technical limitations. Most sewing tasks cannot be fully automated, unlike knitting.[45] The process can be speeded up by buying high-end machines and employing very experienced workers, but at the end of the day the garments still require individual workers using one sewing machine each. Thus, the organization of production differs little from that of the other garment supplier companies in the region.

Significant changes to the production process, however, did take place at the aforementioned large-scale factory in this cluster. This factory is located at the newly erected company headquarters. It serves as a pilot factory in which new production techniques are tested and then standardized and disseminated to the company's twenty-eight other factories. The company has applied lean-production techniques aimed at reducing inventory and the improvement of workflows as well as "just-in-time problem solving."[46] A key innovation regarding the work process was the application of stencils for sewing. Through this tool workers could easily adjust to the high frequency of new styles without first being shown how to do so in detail by their foreperson. This method enhances quality control without requiring input from highly skilled workers. A company representative even claimed that it was possible to hire workers with no prior sewing experience. Training for newcomers takes only six days. The average age of the workforce was twenty-five years, a marked difference from another company in the sample, in which the workforce was older, with half having worked in the same factory for over ten years.

The lower dependency on sewing skills in the modernized factory is also reflected in its wage system. The piece-rate share is one-third of the total wage, whereas it is much higher in most other factories—for example, 60–70 percent at the second-largest brand in the town. This is the main reason for a big wage difference between workers at the former (RMB2,000–2,200 per month) as against the other factories in the sample (RMB2,500–3,500).[47] This was also implicitly acknowledged by a representative of the modernized factory who said that "there are companies in the region that pay more." Wage levels in this upgraded factory are also more even among workers and between high and low seasons. The management offers social service payments for workers, a clean modern factory, and new air-conditioned dormitories. The average working hours of sixty a week remain above the legal maximum, but they are lower than the hours in one other factory in the sample where they can reach up to eighty-four a week during peak production times.

The relocation of production to other provinces was not an issue in the surveyed factories, except for one smaller-brand company. The large fashion brand headquartered in this cluster has already built factories in provinces with cheaper labor but continues to keep the bulk of its operations in Dongguan. Except for the pilot factory of the largest brand, all other companies expressed concerns over labor shortages that have resulted in hiring difficulties and rising wages.

The IT Industry

China has emerged as the global center for IT hardware production after the industry underwent a wave of restructuring following the sector-wide crisis in 2000–2001. Within China, the Pearl River Delta constitutes the most important IT production hub, particularly for export-oriented manufacturing, although other regions, especially along the lower and now the upper Yangtze River, have been gaining ground. About 80 percent of China's total output was for foreign markets, and foreign-invested companies earned 72.5 percent of the sector's revenue in 2010.[48]

IT manufacturing is shaped by regimes of "flexible mass production," especially in Guangdong. Here oftentimes large suppliers to brand-name IT companies combine sophisticated technological capabilities with a "neo-Taylorist" production process in which a migrant workforce performs most of the tasks. The most prominent example of this production model is the Taiwanese contract manufacturer Foxconn, which in 2010 employed over three hundred thousand workers in its Shenzhen subsidiaries alone. The combination of high tech and low wages is characteristic of IT manufacturing: although the technological level of these companies is considerably higher than in the garment industry, and working environments are mostly more modern and clean, low wages and excessive overtime hours are endemic.

The IT industry ranks high in government strategies to elevate the technological level of the country's manufacturing sector. There has been rapid progress since the turn of the millennium with foreign enterprises increasingly allocating R & D functions to China. As a result, local Chinese-owned enterprises have acquired more sophisticated technological knowledge.[49] Global hierarchies in intellectual property and the distribution of profits, however, persist and constitute a challenge for China's indigenous industrial development. Because Chinese companies often do not have access to cutting-edge technologies owned by Western or Taiwanese companies, they lag behind technologically and therefore cannot enter premium markets with higher profit margins.

Case Study 3: Product Upgrading in the LED Industry

To leapfrog developments, central and local governments provide special support for "strategic emerging industries" such as energy-saving technologies and various high-tech industries. A case in point is the LED subsector, which has particularly high growth prospects. In the Twelfth Five-Year Plan (2011–15), the central government has set ambitious targets for the development of the Chinese LED industry.[50] At the local level, particularly in the cities of Foshan, Shenzhen, Guangzhou, and Huizhou in Guangdong Province, governments are fostering the development of the industry by providing technological and financial support for indigenous Chinese-owned enterprises. Additionally, companies can take advantage of an investment program for the installation of LED street lighting that is part of the central government's postcrisis stimulus plan.[51]

LED lighting is used in backlighting for laptop and mobile phone screens and is expanding rapidly in applications such as television, automotive, and street lighting. Industry observers expect the coming of a "third growth cycle" when the more efficient and versatile LED lighting replaces conventional domestic light bulbs en mass. Thus, high-average industry growth rates in China of 28.2 percent for 2009–15 are projected for packaged LEDs (the actual light sources).[52] High expectations, however, have pushed investment beyond sustainable levels and led to a major consolidation in the industry since 2011, even more so after the central government cut its subsidies for the installation of LED street lights.

Unlike the case of computers or mobile phones, where a substantial production volume is provided by large-scale contract manufacturers, Guangdong's LED industry has been dominated by locally owned small and medium-sized enterprises. There is also a characteristic vertical segmentation of the industry between enterprises manufacturing for "upstream," "middle stream," and "downstream" production. "Upstream" refers to the manufacturing of LED wafers and chips, the core semiconductor component of any LED lighting application,[53] and calls for sophisticated knowledge and machinery. It also requires substantial investment in fixed capital and research. "Middle stream," the next production step, involves production of LED light sources, ready-made devices that can be inserted into LED applications. At the end of the LED production chain, "downstream" companies specialize in the manufacturing of various lighting devices, such as street lights or computer monitor backlights. The latter constitutes the vast majority of LED enterprises in Guangdong. According to industry observers, the dominance of downstream production in Guangdong indicates a technological lag and a weakness of Chinese chip producers, i.e., in the most complex and profitable field. Government plans therefore focus on strengthening innovative capacities in chip production.

To upgrade, the central government heavily subsidizes the acquisition of the key equipment required to produce LED chips needed by Chinese companies. This has led to a surge in orders for this technology.[54]

SIMILARITIES AND DIFFERENCES IN VARIOUS LED UPGRADING PATTERNS

The LED sector is not vertically integrated, with most companies specializing in one particular step of the production chain (e.g., in middle- or downstream production). Most enterprises that explore various markets and technologies are small or medium size as is typical for a dynamic sector with relatively immature technology standards. Compared to older segments of IT mass production, such as computers or cell phones, the dominant production strategies are not clearly defined yet and are being sorted out in highly competitive dynamics.

The field study therefore reveals a great variety of company strategies in functional, process, and product upgrading, depending on the nature of the product and the form of integration in local and global production networks.[55] While it is currently hard to identify general tendencies for the whole industry, the results from this sample point to some parallels. First, functional diversification through a vertical integration of production steps is an attractive option. LED lamp producers may "move upstream" to gain higher revenues in more technology-intensive fields. Conversely, LED middle-stream companies may move into the production of applications to profit from expanding markets and government investment programs. Second, all companies may want to heavily invest in R & D because there is a continuous need to improve product quality in this highly competitive and immature industry. Product upgrading is most pronounced in the technologically sophisticated area of upstream production where an intense race for higher lighting efficiency is taking place. For instance, one-third of the workforce (about 100 out of 300 employees) at a surveyed LED chip manufacturer, for instance, consisted of R & D personnel with academic degrees. Additionally, the company cooperates closely with various university institutes in Hong Kong and the Pearl River Delta. A second company, a large LED middle-stream manufacturer, even has its own "post-doc science work station" and closely collaborates with a university. Middle-stream and downstream companies also need R & D, though at a lower level. In fact, no LED manufacturer can survive without increasing its capacity to develop new products. Academics are found in all companies, though they decrease in proportion to the general workforce as we go down the production chain.

A third trend that affects the LED manufacturing process directly is automation. In two out of the five factories in this sample, manufacturing has been rationalized in order to achieve higher efficiency and greater output volume. In two

other cases large-scale automation of encapsulation machines was already widely practiced. Automation is expected to intensify as products and processes become more standardized, while large-volume production is becoming prevalent.

LIMITED SKILL REQUIREMENTS ON THE SHOP FLOOR

In most of the surveyed factories the complexity of products and processes did not require higher skills and knowledge on the part of ordinary line workers. Production takes place either on automated production lines or by manual mounting of devices. Where *manual* mounting of LED lighting devices and die bonding is done owing to small production quantities and/or a great variety of products, the workers only receive at most fifteen days of training plus a short period of close supervision at the beginning. Because of the small size of the components, workers' skills and experience do play a certain role in manual production: female employees are preferred for these tasks because they are considered to be more diligent and skillful.

Workers' skills, however, play little role in these automated processes. Although the precise nature of work in these cases differs according to both the product and machinery, there are remarkably similar skill requirements. In general, machine operators, young migrant workers without exception, receive only a short training of one week to one month. The worker's function is mostly limited to overseeing the accurate operation of the machines, to loading and unloading them and, in some cases, to adjusting certain settings. The higher-level responsibilities for programming and setting up of the machines generally remain the domain of formally trained engineers. This leaves little or no space for line workers for upward mobility through skills development. A representative of the most technologically sophisticated company of this sample summed up the limited demands for skills by saying: "They need to know how to make it not why they make it." There was, however, one exception to this rule. At one of the sampled companies roughly one-third of machine operators do need more comprehensive training of at least half a year for one specific function (encapsulation), as it requires more sophisticated adjustment of the machines.[56]

The overall low skill requirements at the level of production are reflected in the social composition of the workforce and their wages. Mostly young migrant workers are hired. When recruiting new line workers, LED companies attach little importance to prior work experience in the same sector, unlike in the garment industry. Available data from four surveyed LED factories suggest that wages are even lower than in the sampled garment factories. The total income of workers, including overtime, hovers between RMB2,000 and RMB2,500. Wages for some manual tasks are paid according to a piece-rate system. In automated production hourly wage schemes prevail, although some workers are still paid according to piece

rates. All companies add performance-based shares based on the overall productivity of the respective departments. Usually the local minimum wage serves as the reference point for the workers' base wage. There is also little extra income earned through overtime because the shift systems are more rigid where surface-mount devices (SMDs) or other automated techniques have been introduced.

The wage levels for line workers within each factory are relatively equal. This even includes the above mentioned subcategory of encapsulation workers who need to acquire more sophisticated skills. A representative of this company said about them: "As their importance in the production lines is the same, the final salary is not far from that of other [less-skilled] workers." In this factory, the management complained about a high workforce turnover (about 10% per year). To prevent skilled line workers from leaving the factory, they are offered improved dormitory conditions (hot water, clean quarters) and other comforts. These employees receive no benefits in terms of higher wages or reduced working hours, however, and the company continues to suffer from a shortage of skilled workers.

Social Upgrading in the Garment and IT Industries: Similarities and Differences

Despite great variations in their respective upgrading patterns, the case studies show striking similarities in the garment and IT industries. First, there is an increased demand for knowledge-intensive work (highest in the LED and lowest in the knitwear industry). Second, there is a strong bifurcation of the workforce between tasks of management, design, and R & D, on the one hand, and de-skilled manufacturing, on the other. While industrial transformation creates an increased demand for highly skilled workers, the new requirements barely trickle down to ordinary line workers. On the contrary, companies try to reduce their dependency on skilled work by using a greater degree of automation and reorganizing production processes (especially in the garment industry).[57] This division between knowledge work and unskilled work continues to be built on the segmentation of the workforce between local residents and migrant workers.

A closer look at the respective labor processes also reveals important differences between the garment and IT industries. Most important, there are limits to the overall trend toward automation in the garment industry owing to the nature of the product. The processes of linking (in the knitting industry) and sewing are largely resilient against further automation that would be either technically impossible or only practicable through high-capital investment. Therefore, these processes remain highly labor intensive and rely on large numbers of very experienced workers. As the case of the pilot factory of the most advanced sewing

company in this sample demonstrates, however, management seeks to further eliminate skill dependency and to depress wages given the shortage of experienced sewers in the region.

In contrast to the garment industry, there seem to be less technological limits to automation in the LED industry: the manual mounting of devices probably will disappear as the industry develops further. There will be further concentration in the direction of bigger production units and ongoing automation, and it is likely that LED manufacturing will take on forms that resemble electronics manufacturing in more mature subsectors that imply exploitative patterns of work under regimes of flexible mass production.

Another difference between the garment and IT companies concerns their respective wage systems. In garment production remuneration schemes based on piece rates prevail, whereas hourly wages are more common in LED factories. On this basis, experienced garment workers can make an above-average wage unlike line workers in IT companies. Where automation is implemented, the labor process generally becomes more monotonous. The work of machine operators—be it in LED production or in automated knitting—is very repetitive and demands little cognitive involvement on the part of the workers. Other functions in garment production, on the contrary, depend on high worker versatility, as is the case with sewing workers who have to adapt to new styles and sometimes new products.

The "power" of these sewers or linkers to gain more by making a higher piece rate is, however, a mixed blessing. Because management determines the compensation in low-wage piece-rate schemes, workers are still forced to work excessive overtime hours in order to make a living. Working hours in the garment sector amounted to sixty or up to even eighty-five hours a week during peak production. When production volume decreases as a result of a lack of orders in the low season and no or less overtime is needed, workers do express discontent with their wage losses. In the LED sector, more stable production flows and wage systems could potentially provide a foundation for limiting excessive overtime and guarantee a more stable income, but this is not the case because management unilaterally sets the conditions. Working hours thus still surpass the legal maximum and frequently reach levels greater than sixty or even seventy hours a week. As there are no collective contracts that set monthly wages and allow workers to have a say about this, wages remain the same but low.

Failure to Upgrade Social and Labor Standards

A closer look at the effects of industrial upgrading on workers reveals that the selected upgrading paths largely amount to a failure in *social* upgrading. Mounting

pressures on the labor-intensive, predominantly export-oriented growth pattern in Guangdong provoke changes in company strategies, but the solutions that are being chosen mostly lie in a reconfiguration of production systems based on low-skilled and badly paid migrant labor rather than in overcoming them. Instead of providing more stable, humane, and well-paid forms of employment, companies strive to reduce the size of their workforce and to further de-skill manufacturing work. In this sense, the assumption that there is no automatic link between industrial and social upgrading, as discussed in the introduction of this chapter, can be radicalized: technology-centered upgrading can even reflect a refusal of management to upgrade wages and working conditions.

Where the de-skilling of the workforce finds its limits for technological or economic reasons, the labor-intensive mode of production runs into contradictions. A manager of a smaller fashion company captured this contradiction well when he complained about the "headache" of finding suitable sewers, claiming that he was unable to pay higher wages. The LED company that relied on skilled workers for encapsulation but refused to offer them better conditions faces a similar dilemma. These examples point to the need for more stable employment and remuneration schemes based, for example, on seniority. But employers resist reforming their employment schemes, even when contradictions within the established patterns of work become obvious. Neither are there incentives from local governments to this end, as governments continue to promote a purely technological road for industrial progress that ignores social-upgrading issues.

Consequently, labor-intensive enterprises that are affected by labor shortages may prefer to relocate than to improve conditions for their workers. Such relocations of factories may contribute to some industrial development and employment opportunities in China's interior. Yet the geographical detachment of low-end functions simply replicates a situation in which the potential benefits of industrial upgrading are not translated into better conditions for workers; instead, exploitative labor patterns are exported and resurrected in another region. Relocation as a business strategy was only observed at the knitting companies, however, and not at the labor-intensive LED companies. These LED companies and, interestingly, most of the labor-intensive fashion companies in this study stated that government support for industry clusters and proximity to traders, customers, and suppliers in Guangdong outweighed the disadvantages of rising labor costs.

Hence, despite the fairly widespread tendency toward industrial upgrading, there is no end to cheap labor in Guangdong. Established patterns based on low-wages are integrated with more sophisticated models of technology and production. The expectation for more just regimes of production that would imply a substantial growth in workers' incomes and at the same time challenge

the legal divide between urban residents and migrant workers remains remote. This may turn out to be the main obstacle to both the government's efforts to harmonize labor relations and to rebalance economic growth patterns in the direction of greater domestic consumption. The projected rises in minimum wages are insufficient because they do not affect the patterns of rationalization that reproduce social divisions on the shop floor. The inner contradictions of industrial and societal transformation need, instead, to address the persisting social inequalities at the point of production.

An important precondition for this would be a rebalancing of power relations at the enterprise level by granting collective rights to workers that would give them the political and legal space to fight for day-to-day issues, including occupational health and safety, higher wages, and more just wage systems. Additionally, structural issues regarding the organization of production—work intensity, the division of labor, and cognitive involvement in daily work—should be addressed. Attempts by the Guangdong Provincial Federation of Trade Unions to establish a more democratic representation of workers at the enterprise level made in the wake of the automotive industry strikes in 2010 may be considered as a significant step in this direction. As the current reform initiatives have shown mixed results and as workers' representation in the garment and IT industries is usually absent, however, it can be assumed that major changes in the respective regimes of production will depend on further waves of migrant-worker unrest. Such outbursts of struggle may determine whether the ongoing processes of industrial upgrading will actually be accompanied by improvements in labor standards for ordinary workers.

5

THE WORKING AND LIVING CONDITIONS OF GARMENT WORKERS IN CHINA AND VIETNAM

A Comparative Study

Kaxton Siu

Labor rights have become a controversial issue in China and Vietnam as they become global manufacturing powerhouses. Although low labor standards are a major comparative advantage for attracting foreign investment in both countries, since 2000 each has also drawn up or revised relevant laws and instituted minimum wages to provide some protection for workers. The revision of labor laws in China and Vietnam has given an impression that workers' lives in both countries have been improving.

In this chapter I argue, however, that labor laws per se do not necessarily protect workers nor do higher minimum wages necessarily improve workers' living conditions. Workers in China and Vietnam experience different patterns of working conditions. The differences can be explained by examining the interplay between workers' objective conditions and subjective desires in production and consumption spheres in these countries. Both the Chinese and Vietnamese governments ensure that some standards and procedures regulated by labor laws are to foreign investors' advantage. In addition, both countries suffer from lax labor law enforcement, in particular with regard to the clauses related to overtime compensation. While Vietnam sets lower standards and gives investors greater latitude to exploit workers via loopholes in the laws, China has stricter national labor laws but chooses not to enforce them at the local level. Nevertheless, whether investors can succeed in squeezing more out of workers through these latitudes and legal nonenforcement in turn depends on other factors, including workers'

willingness to work long hours, their satisfaction with respect to their earnings, and their living standards.

Selecting China and Vietnam as comparators is akin to using control factors in a control experiment. At the macro level, both countries' industrial economies have been developing in quite similar ways. Both countries had planned command socialist economies in the past. In the past three decades both countries have introduced dramatic changes in their labor markets, employment systems, and labor regimes. These Asian neighbors are still run by one-party Communist regimes, and labor representation is controlled by official trade unions (the All-China Federation of Trade Unions, ACFTU, and the Vietnam General Confederation of Labor, VGCL), and autonomous trade unions are prohibited. Given all these similarities, why do Chinese and Vietnamese workers have such contrasting work environments and living conditions?

There are few comparative studies on Vietnamese and Chinese labor standards.[1] Anita Chan and Wang Hongzen account for the differences in the two countries by institutional variations such as the household registration system, living arrangements, workers' attitudes toward the trade unions, and the role of the central state.[2] In comparing strikes in Taiwanese-owned factories in Vietnam and China, Anita Chan found that Vietnam's labor code, while legalizing collective action and laying out strike procedures in detail, makes the procedures so difficult for workers to comply with that it actually encourages more illegal wildcat strikes.[3] To complement these studies, in this chapter I take the analysis one step further by including workers' subjective desires and objective living experiences to explain the differences between labor standards in China and Vietnam.

Garment Industries in Shenzhen and Ho Chi Minh City

To investigate the differences in labor standards between China and Vietnam, I selected the garment industries in Shenzhen and Ho Chi Minh City (HCMC). In the economies of both countries, the garment industry is one of the most important, earning trade surpluses, attracting foreign direct investment, and creating jobs for rural migrants.

China has been the largest garment exporter to the United States and Japan since 1995 and the second largest to Europe since 2000. In 2002, the year after China joined the World Trade Organization (WTO), China's garment exports began to shoot up even more rapidly: total exports jumped from $36 billion in 2000 to $130 billion in 2010.[4] In 2009, about 40 percent of the garment products sold in the United States were imported from China.[5] Shenzhen has been

an important garment production base since the economic reforms began; garments are Shenzhen's largest export-processing industry, and Shenzhen manufactures about one-sixth of the country's total output.[6]

Similarly, since 2006, the year after Vietnam joined the WTO, the country witnessed rapid growth in its export-oriented garment industry. Garment exports doubled in value between 2005 and 2008, from $4.7 billion to $9 billion.[7] In 2005 Vietnam became the fifth-largest garment exporter in the world. Garments are the second-largest export product in HCMC after rice, accounting for 12 percent of the city's total exports in the first quarter of 2012.[8]

Today, there are about three thousand garment factories in Shenzhen, employing more than 300,000 workers. Most of these factories are foreign-invested enterprises, half of which are Hong Kong owned. The factories range from small (about 100 workers) to medium (about 500 workers) to large (about 10,000 workers). By contrast, although there are no statistics, there are fewer Hong Kong–invested factories in total and in proportion in HCMC, and these are generally smaller. Out of the one thousand garment factories in the city, only some two hundred were foreign invested, but most of the latter are large factories employing up to 10,000 workers and owned by Taiwanese or Korean companies.

To standardize the impact of management practices, I selected to study only Hong Kong–invested garment factories in Shenzhen and Ho Chi Minh City. The difference in the number of Hong Kong–invested garment factories in Shenzhen and HCMC has much to do with the history, development, and repositioning of Hong Kong's own garment industry. In the 1970s and early 1980s, Hong Kong was the world's leading garment producing and export center. China's economic reform in the early 1980s allowed Hong Kong's manufacturers to relocate across the border to take advantage of its cheap labor. Very quickly almost all Hong Kong's garment manufacturers were operating in China, and Hong Kong repositioned itself as a re-export center. But, as labor costs rose in southern China, Hong Kong garment investors sought cheap labor in other countries, including Vietnam. Compared to Taiwanese and Korean investors, however, who had started setting up production facilities in Vietnam in the 1980s, Hong Kong investors were latecomers to Vietnam.

To gather data I collected factory-gate surveys from workers from six garment factories in Shenzhen in 2010 (table 5.1). A total of 389 questionnaires were collected, with the number of respondents from each factory in proportion to the estimated factory size. I also interviewed factory owners, middle managers, merchandisers, and workers. To gain a deeper understanding of Chinese migrant workers' daily lives, I lived with three male migrant workers in an apartment next to one of the surveyed factories for six months in 2010.

TABLE 5.1 Surveys of garment workers in Shenzhen, China (2010) and HCMC, Vietnam (2010) (N=743)

FACTORY	NO. OF RESPONDENTS	ESTIMATED FACTORY POPULATION
China		
C1	16	100
C2	59	500
C3	124	10,000
C4	124	10,000
C5	51	500
C6	15	100
Subtotal	389	
Vietnam		
V1	149	10,000
V2	149	10,000
V3	48	500
Subtotal	346	

The data for Vietnam was collected between 2009 and 2011 in five separate visits I made to the HCMC area. The Hong Kong–invested garment factories were randomly selected (table 5.1). I used the same questionnaire as in China and interviewed 346 workers outside factory gates and another 20 workers with a less formal questionnaire. Information on the changes in Vietnam's living standards between 2000 and 2010 is based mainly on data from the annual statistical yearbooks and household living standard surveys published by the General Statistics Office of Vietnam in 2002, 2004, 2006 and 2008.

Working Conditions

Regular work hours under the Chinese Labor Law are limited to forty hours a week for a five-day week, which amounts to an average of 21.75 days or 176 hours a month. In contrast, regular work hours in Vietnam are forty-eight hours a week for a six-day week, which amounts to an average of 26.4 days or 211 hours a month. Hence, in Vietnam, workers' normal legal work hours are thirty-five hours more than that of their Chinese counterparts (table 5.3). All work hours beyond the regular forty a week in China and forty-eight a week in Vietnam are considered as overtime. China allows for no more than thirty-six hours of overtime a month, with a legal monthly maximum of normal plus overtime of 212 hours. In the pre-2013 versions of the Vietnamese Labor Code, however,

TABLE 5.2 Chinese and Vietnamese garment factories: work hours and wages/month, and hourly wage rate

	CHINESE FACTORIES (N = 394)		VIETNAMESE FACTORIES (N = 349)	
Variable	*Mean*	*Standard Error*	*Mean*	*Standard Error*
Work hours per weekday	11.15	1.19	9.82	1.73
Work hours per Saturday	9.97	1.87	8.24	1.11
Work hours per Sunday	6.65	4.33	3.42	3.89
Work hours per month	297.96	2.41	255.59	2.41
Overtime per day	3.17	0.58	1.84	0.88
Days off per month	3.44	0.14	3.32	0.83
Monthly wage	$266.76	$3.10	$141	$1.89
	(CNY1,808.65)	(CNY21.03)	(VND2,890,359)	(VND38,823)
Hourly wage	$0.94	$0.2	$0.55	$0.01
	(RMB6.35)	(RMB0.16)	(VND11,308)	(VND188)

Note: Based on an exchange rate of $1: CNY6.7802/VND20,500.

no monthly maximum was specified, which constituted a serious loophole, especially during peak seasons of production.

In practice, however, the survey shows there was quite a big difference in the average length of work hours for Vietnamese and Chinese garment workers in 2010. It shows that actual work hours (table 5.2) for Chinese workers in the sample averaged about 300 a month, 124 of which were overtime hours (300 hours – 176 normal work hours = 124 hours). That means 88 of the overtime hours (300 hours – 212 hours = 88 hours) were illegal. Chinese garment workers' total working hours a month were astonishingly high—42 percent more than the legal maximum. Over half of the workers (52%) reported that they had to work more than 11 hours on weekdays, and nearly three-quarters (73%) could not take as many as four rest days a month, the minimum legal requirement.

In contrast, Vietnamese garment workers worked far fewer hours a month than Chinese garment workers. Based my sample, on average, Vietnamese workers worked only 256 hours a month; 45 of these were overtime (256 hours – 211 hours = 45 hours). Vietnamese workers worked fewer than 10 hours on weekdays, fewer than 9 hours on Saturdays, and fewer than 4 hours on Sundays. Most Vietnamese workers did not have to do any illegal overtime. In addition, about half of the Vietnamese workers (51%) took 4 or more rest days a month. In other words, although the legal normal workweek in Vietnam is longer than that in China, Vietnamese garment workers actually work 42 fewer hours a month than Chinese workers. How do we explain this paradox?

Differences in Labor Standards

Why do Chinese workers work so many more hours a month than their Vietnamese counterparts? And why do they need to work so many illegal overtime hours? Going by the conventional wisdom of "the cheaper the better," foreign investors should be asking Vietnamese workers instead of Chinese workers to work longer hours. Not only do the former have much longer normal legal work hours, the unit labor cost in Vietnam is only half that of China. Should foreign investors need Vietnamese workers to work longer hours, they would have the advantage of needing to pay less overtime as well as not violating the law that much. That investors do not exploit this advantage indicates that there are other significant factors at work in these countries' respective labor regimes.

NATIONAL LABOR LAWS

China's five-day workweek and Vietnam's six-day workweek contribute to dissimilar overtime compensation rates. In China, the legal overtime rate for an ordinary workday is 1.5 times the regular hourly wage, and 2 times for the fifth and sixth day. In both countries, each hour of the seventh day of work in a week is compensated at twice the regular hourly wage. For working on a public holiday, Chinese workers are compensated at 3 times the regular hourly wage while Vietnamese workers receive only twice that rate (table 5.3).

There is general confusion about the way in which overtime work is compensated in China and Vietnam. Many workers and even scholars wrongly regard a working week as being divided into three parts with different compensation rates: Monday to Friday, Saturday, and Sunday. But neither the Chinese nor the Vietnamese labor laws contain a clause specifically naming "Saturday" or "Sunday" in relation to overtime compensation. In addition, factory managers do not necessarily allow workers to have weekly rest days on Sundays. Thus, when workers' days off do not fall on Saturdays or Sundays, they are not aware that they should be compensated by overtime rates when they are working on those days. To ensure that our calculation is done properly, we should divide a working week into three parts, without specifying the days of the week: the first to the fifth workday, the sixth workday, and the seventh workday, each of which has a different overtime compensation rate (see table 5.3).

That Vietnamese workers work 35 hours a month (i.e., about 1.3 hours a day) more than those in China partly explains why Vietnamese workers had fewer overtime hours. If the 35 hours were to count as overtime in Vietnam, the proportion of overtime to monthly work hours would increase from 13 percent to 31 percent [(45 hours + 35 hours) / 256 hours = 0.31]. If this 13 percent increase in overtime were to be compensated at the rate of 1.5 times the regular hourly

TABLE 5.3 Summary of legal maximum of regular and overtime work hours and overtime compensation methods in Chinese and Vietnamese labor laws

		CHINA	VIETNAM
Regular work hours	Legal daily maximum	8	8
	Legal weekly maximum	40	48
	Legal monthly maximum	176	211
	Legal annual maximum	2,112	2,532
Overtime work hours	Legal daily maximum	4	4
	Legal monthly maximum	36	unspecified
	Legal annual maximum	432 (conditioned by a maximum of 36 hr/month)	200 maximum (can be freely allocated throughout a year)
All work hours (regular and overtime included)	Legal monthly maximum	212	unspecified
	Legal annual maximum	2,544	2,732 hours
Overtime work compensation methods	Overtime rate for the first to the fifth workdays of the week	1.5 times regular hourly wage	
	Overtime rate for the sixth workday of the week	2 times regular hourly wage	• First 8 hours: same as regular hourly wage • After first 8 hours: 1.5 times regular hourly wage
	Overtime rate for the seventh workday of the week (i.e., the rest day of the week)	2 times regular hourly wage	2 times regular hourly wage
	Public holidays	3 times regular hourly wage	2 times regular hourly wage

wage, Vietnamese workers' total monthly wage would be substantially increased. In other words, from an investors' perspective, because legal regular work hours are longer in Vietnam than in China, there is less necessity to make Vietnamese work more overtime hours because they have already gained from not paying the overtime rate for the sixth day of a working week.

There was also a loophole in the pre-2013 Vietnamese Labor Code that allows investors to avoid paying high overtime premiums. The Work Time section, article 69, states that "the employer and the employee may agree on overtime hours, but the length of such overtime shall not exceed *four hours per day nor 200 hours per year* [my emphasis]." Herein lies the legal ambiguity in terms of overtime hours. Although this article limits employers from making employees work more than twelve hours a day, it does not limit an employer from demanding excessive overtime of workers on a *monthly basis*. This allows employers to flexibly schedule the two hundred hours of yearly overtime, which can be squeezed into one or two months during peak seasons. The range of this legal maximum a year can be as wide as between 228 hours (evenly distributed within twelve months) and 411 hours (all clustered in one month).[9] At worst, employers in Vietnam can and have been known to demand the daily maximum of 12 working hours continuously up to 317 hours in one month (26.4 days x 12 hours = 317 hours) without violating any laws.

In contrast, foreign investors in China do not enjoy the benefits of a similar regulatory loophole. There is no ambiguous sentence in the national labor law allowing employers to choose to construe employees' work time on a weekly or a daily basis. As such, employers must compensate workers' beyond their first eight hours of work on any weekday at 1.5 times the standard hourly rate. In addition, China's labor law also has more restrictive provisions on overtime. Under article 41 of the National Labor Law of the People's Republic of China, there is no ambiguity about prohibiting overtime work beyond 36 hours *a month*: more than this is illegal. Therefore, investors in China can allocate overtime hours only by the month, not by the year, which greatly reduces their options for flexibility.

But is the Chinese Labor Law better for workers in this regard than the Vietnamese law because it has fewer loopholes? Yes and no, given the question of legal enforcement. Although the *national* Chinese Labor Law places more restrictions on overtime than does the Vietnamese, it allows local labor bureaus to approve employers' applications to set work hours outside the national rules.

When China's Labor Law was passed in 1995 by the Ministry of Labor, the "Measures concerning the Implementation in Enterprises of a Nonstandard Working-Hours System and of Accumulated Working Hours" (hereafter, the "Working Hours Measures") were also promulgated.[10] The Working Hours Measures gave local labor bureaus at the city level great latitude to approve employers'

workplace arrangements under the "accumulated hours scheme," which permits employers to calculate work hours on a weekly, monthly, seasonal, or annualized basis. Although the Working Hours Measures specify that the average working day and working week under the "accumulated hours scheme" must be "basically similar" to the standards set out in the national Chinese Labor Law, the phrases "average working day," "average working week," and "basically similar" are ambiguous.

As Sean Cooney rightly points out, "The Working Hours Measures do place some constraints on the implementation of these schemes, but these are not tightly drawn . . . [and] such systems can be used to reduce overtime payments."[11] As a matter of fact, the Working Hours Measures are quite short, which gives local governments space to issue more detailed rules (except for particular state-owned enterprises, whose rules are enacted at the national level). The end result of the Working Hours Measures is the empowerment of local labor bureaus to exclude many, if not most, workers from the restrictions covered by the national labor law.[12] Hence, because of the Working Hours Measures, the Chinese Labor Law also allows a flexibility that is quite similar to Vietnam's Labor Code. The difference lies in Chinese employers having to seek approval from local labor bureaus for using the Working Hours Measures, whereas in Vietnam, employers "have the right to select methods of payment" as they please, provided that "workers are notified"; local government does have discretionary power implementing laws. According to Vietnam's pre-2013 Labor Code:

> Article 58, Clause 1: The employer *shall have the right to select* the method of payment: on a time basis (hourly, daily, weekly, or monthly), a piece-work basis, or for a particular job, provided that the method of payment adopted is regularly maintained over a given period and *that the workers are notified* [emphasis mine].
>
> Article 58, Clause 2: Workers paid by the hour, day, or week shall be paid upon completion of the hour, day, or week of work in question or shall be paid accumulated wages as agreed by the parties, but at least once every 15 days.

To "notify" workers means the decision is one-sided; there is not even a "consultation," not to mention getting an "agreement" from workers or the trade union. Thus, as these clauses are enforced at the national, not local, level, foreign investors enjoy unilateral decision-making power over the method of payment. Along with the ambiguous overtime limit (i.e., no specified monthly overtime limit), the room for investors to exploit Vietnamese workers through clustering overtime hours and changing payment methods without violating the Vietnamese Labor Code is greatly enhanced.

At first glance, it seems that Vietnam's Labor Code gives foreign investors greater latitude to determine their payment systems than does China's Labor Law, because foreign investors in Vietnam are not required to get approval from local labor bureaus. In practice, the situation is hardly better in China. Implementation of China's National Labor Law is decentralized in that it allows local governments to issue rules to regulate accumulated working hours in workplaces. But local governments have taken a long time to issue rules on implementation since the promulgation of the Chinese Labor Law in 1995, and they are also notoriously poor in enforcing the national law. For instance, it was not until 2004 and 2005 that the Beijing and Guangdong provincial labor bureaus passed their respective rules for the regulation of nonstandard working hours and accumulated hours of work. During this time lag of ten years, it became normal practice among foreign investors not to observe China's Labor Law. By the time the rules on implementation were announced ten years after the introduction of the law, they had little impact on actual practice; most foreign investors in China had been violating the labor law with impunity. In the survey conducted in 2010 for this study, almost all (95%, 366 out of 386) Chinese workers worked beyond the 212 legal maximum monthly work-hour limit.

Underpayment is also a serious problem. Chinese workers received on average $267 a month (fig. 5.1). Because of the vast amount of overtime they put in, their legal entitlement should be $622; yet their take-home wage is only 43 percent of

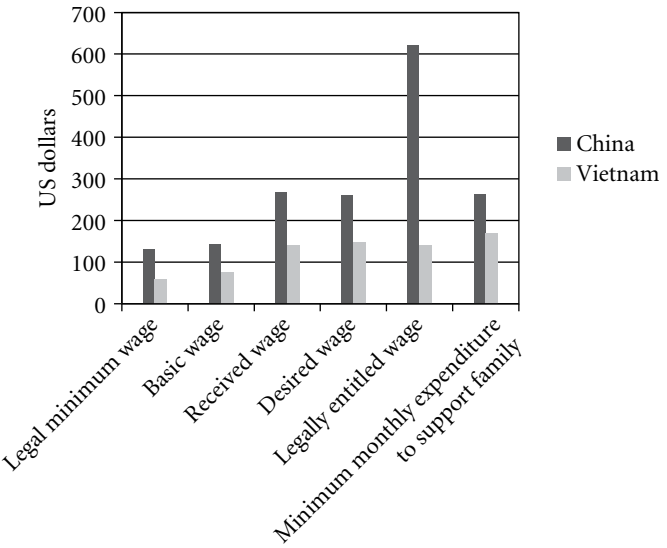

FIGURE 5.1. Chinese vs. Vietnamese workers: Comparative wage structures and minimum monthly expenditure in dollars (N = 743).

their legal wage. The gap is enormous and reflects an extremely lax monitoring system. Only 40 percent of the sampled workers were able to get the legal or slightly higher overtime rate for normal workdays, while the remaining 60 percent received no overtime premium at all. Instead, they received either the regular hourly rate or even less. Astonishingly, nearly 15 percent of Chinese workers reported that they earned *less than the regular hourly pay* for overtime work on weekdays.

Even more serious underpayment takes place for work on Saturdays and Sundays (or the sixth and seventh workdays of the week) and public holidays. For Saturdays (or the sixth workday), less than 37 percent of workers were paid the legal rate of twice the regular hourly wage; 58 percent of workers were paid at their regular rate or even less. For work on Sundays (or the seventh workday), similarly, 60 percent of workers earned the same or less than the regular hourly wage. None of the workers in the sample were paid the legal rate of 300 percent for work on public holidays, while 71 percent received 200 percent (table 5.4).

In 2006, Anita Chan and I conducted a similar but smaller survey to compare wages in the toy and garment industries in China. We discovered that garment workers' monthly work hours were in general longer than those of toy workers. Also, garment workers who were paid on a piece-rate basis made much less than toy workers who were paid on a time rate. We concluded that the piece-rate system gave garment workers the illusion that the more hours they worked, the more they could earn. Sadly, the reality was quite the reverse: the more they worked, the less they made per hour and the more their factory bosses underpaid them.[13]

In comparison, Vietnamese workers in my sample on average received the same monthly wages ($141) as they are legally entitled to ($140). But this does not mean that there is no violation in overtime payments because some get less and some get more than the legal wage—in fact there is a serious problem with underpayment in the export-manufacturing industries. Some 60 percent of workers surveyed reported that they were not paid the legal overtime rate between Mondays and Saturdays (i.e., between the first and the sixth workdays), which should be 1.5 times the regular hourly wage; 61.2 percent did not receive a legal Sunday (the seventh workday) overtime rate; and 28.5 percent were never paid the public holiday overtime rate. Only 43 percent of Vietnamese workers could get legal overtime pay on weekdays and Saturdays. This group of workers received wages of $125.4 per month,[14] that is, $14.6 less than their legally entitled wage. This difference amounts to 10.4 percent of a Vietnamese workers' legal wage, which is very low compared to 57 percent for Chinese workers. This comparison further suggests that exploitation in the form of underpaid overtime wages exists and is common both in China and Vietnam, but the situation in Chinese workplaces is unquestionably more serious.

TABLE 5.4 Chinese and Vietnamese workers' overtime compensation

MON.–FRI. (1ST TO 5TH WORK DAYS) OVERTIME PAY	CHINA		VIETNAM	
	N	%	N	%
Less than regular hourly wage	12	3.5	39	15.8
Same as regular hourly wage	194	57.2	107	43.3
1.5 times regular hourly wage	123*	36.3*	87*	35.2*
2 times regular hourly wage	9	2.7	8	3.2
More than 2 times regular hourly wage	1	0.3	6	2.4
Total	339	100	247	100

SATURDAY (6TH WORK DAY) OVERTIME PAY	CHINA		VIETNAM	
	N	%	N	%
Less than regular hourly wage	8	2.3	38	15.4
Same as regular hourly wage	269	78.7	106	43.1
1.5 times regular hourly wage	54	15.8	10*	4.1*
2 times regular hourly wage	9*	2.6*	90	36.6
More than 2 times regular hourly wage	2	0.6	2	0.8
Total	342	100	246	100

SUNDAY (7TH WORK DAY) OVERTIME PAY	CHINA		VIETNAM	
	N	%	N	%
Less than regular hourly wage	33	10	40	16.5
Same as regular hourly wage	46	13.9	103	42.6
1.5 times regular hourly wage	76	23.0	5	2.1
2 times regular hourly wage	173*	52.4*	92*	38.0*
More than 2 times regular hourly wage	2	0.6	2	0.8
Total	330	100	242	100

PUBLIC HOLIDAY OVERTIME PAY	CHINA		VIETNAM	
	N	%	N	%
Less than regular hourly wage	0	0	0	0
Same as regular hourly wage	272	86.3	111	28.5
1.5 times regular hourly wage	0	0	0	0
2 times regular hourly wage	43	13.7	277*	71.0*
3 times regular hourly wage	0*	0*	2	0.51
More than 3 times regular hourly wage	0	0	0	0
Total	315	100	390	100

* Workers who received overtime pay in accordance with legal overtime compensation

In addition to the loopholes and legal violations, when further comparing the basic wage and legal minimum wages of both countries, two very different government labor-management strategies emerge. In our sample, the Chinese workers' monthly basic wage set by management was $143 (see fig. 5.1), only 8 percent more than the legal minimum wage of $132. In contrast, Vietnamese workers' monthly basic wage was $75, about 30 percent higher than the legal minimum wage of $58. In fact, it has only been the norm since the mid-2000s for foreign investors in China to equate Chinese workers' basic wage to the legal minimum wage; this is not the case in Vietnam. In Vietnam foreign investors have to set the basic wage a lot *higher* than the legal minimum wage. If foreign investors in Vietnam do not pay a higher basic wage, to use the Marxist concept of "reproduction of labor," Vietnamese workers will not be able to sustain themselves because the minimum is set too low.[15]

Developing countries in Asia all have minimum wages, ostensibly to ensure that workers are protected against serious exploitation. In reality, when these countries set the legal minimum wage it is actually the price a government sets to sell its labor to foreign investors. The decision is made after strategic calculations. What we are witnessing in China and Vietnam are two different international labor market strategies. The Chinese government is torn between two demands: to maintain social stability and avoid industrial conflict by raising the minimum wage regularly while not pricing Chinese labor out of the international labor market. To maintain this balance, the Chinese government carefully monitors macroeconomic conditions such as the inflation rate and other cost of living indices and adjusts the legal minimum wage upward annually to an "optimum" level.[16] Raising the minimum wage makes foreign investors offer wage packages that come up to at least that level, but once the legal standard is met, the government turns a blind eye to legal violations such as the number of hours worked and overtime premiums. In this way, one of the major labor demands and discontents—wage increases—has been absorbed, controlled, and channeled through the government's minimum wage policy.

In contrast, in order to attract foreign investment, the Vietnamese government has set a minimum wage so low that it is barely sufficient for Vietnamese workers to survive on. Our survey found that the legally entitled wage ($140), not to speak of the received wage, was lower than workers' minimum monthly family per person expenditure ($170). This gap between income and necessary expenditure means that Vietnamese workers could possibly be living in debt or in abject poverty (a point I will return to later). To help workers survive, the Vietnamese government and official trade union tacitly support workers demanding more, notably by allowing strike actions to bargain for higher basic wages from foreign investors and siding with striking workers at the negotiating table.

When analyzing the waves of strikes in Vietnam between 2006 and 2011, we discovered that local government and trade union officials have established a pattern for handling strikes. When a strike breaks out, they hurry to the scene, calm the strikers, collate workers' grievances, berate management for violating the law or for being unwilling to bend, and then proceed to negotiate on behalf of the strikers.[17] Hence there have been a lot of strikes in Vietnam. On the surface, the Vietnamese government favors foreign investors with a very competitive legal minimum wage that is lower than that of several other neighboring countries, particularly China. Closer examination reveals that the Vietnamese state has shifted the wage bargaining process from the policy arena to that of class struggle. This strategy has successfully attracted a big surge in foreign investment as of 2005. Though this strategy does run the risk of deterring investors, thus far the strikes have been generally peaceful, and low wages have overridden investors' fear of uncontrolled labor unrest. Certainly, foreign investors are not ignorant and passive to the Vietnamese state's strategy. For example, in 2011 when the number of strikes increased to an unprecedented level, reaching 857 that year, Taiwanese investors put pressure on the Vietnamese government to suppress strikes through both formal and informal means. The chief representative of the Taiwanese Economic and Cultural Office was reported for several months to have "been actively contacting all relevant bureaucracies in Vietnam to inform them that Taiwanese business are extremely concerned about the situation, and emphasized these strikes are definitely beginning to deter Taiwanese investors from coming to Vietnam."[18] In addition, Taiwanese officials held multilateral meetings with Vietnamese local police and urged them to handle the "illegal" strikes so as to re-establish Vietnam and Taiwan's "harmonious industrial relationship."[19] In short, in response to the Vietnamese state's strategy, foreign investors proactively have attempted to shape laws and enforcement to their own advantage.

To return to the question of why investors in Vietnam have not taken advantage of the legal loophole to extend workers' weekly hours from a 60-hour week to, say, a 70-hour week, as they do in China, I will examine workers' subjective work desires against their objective working and living conditions in both countries.

DESIRED WORK HOURS AND WAGES

How much do workers themselves want to make a month? What are their subjective conditions? How much do they think they need to earn to make ends meet? And how many hours do they want or expect to work in order to maintain their livelihoods? When we asked, "How much do you wish to make each month?," what I call the *desired wage*, surprisingly, the amount Chinese workers wanted was very close to what they were actually receiving. (In fact it was even $7 less.) Interestingly, when we asked, "How much do you think is enough to support

your family each month?," the workers' estimate of $264 was also very close to their received wage. This can be interpreted as Chinese workers being quite satisfied with what they were currently making. This is in sharp contrast with Vietnamese workers' responses. Although Vietnamese workers desired the same wages as they were making, they actually needed $29 more to support their families. In that case, there is a question as to why Vietnamese workers only wanted to make $148 rather than $170 (fig. 5.1).

In addition, we also asked, "Without considering the amount of wage earned, how many hours of work (including overtime) do you think are suitable for you?"—that is, *their desired work hours per day*. The results show that 59 percent of Chinese workers thought working 9 hours or more was suitable for them; in contrast, only 16.7 percent of Vietnamese workers thought the same. The majority (82.5%) of Vietnamese workers thought that eight hours were most suitable, but less than half (40%) of the Chinese workers wanted an eight-hour day, while the rest wanted more hours (table 5.5).

There is a surprisingly big difference between the responses of the Chinese and the Vietnamese workers. Although Vietnamese workers were satisfied with their present earnings, they did not want to work very long hours, and *at the same time* they thought they were not being paid enough to support themselves and their families. That can partially explain why foreign investors did not or could not take advantage of the flexible work hours in the labor law to lengthen workers' hours. They had difficulty getting Vietnamese workers to do more overtime. In contrast, Chinese workers appeared to want to work longer hours although they were satisfied with their present earnings. The rather high percentage of Chinese workers' subjective willingness to do overtime seems to be in line with their employers' wish to lengthen their work hours.

TABLE 5.5 Chinese and Vietnamese workers' desired work hours per day

Q: *"WITHOUT CONSIDERING THE AMOUNT OF SALARY EARNED, HOW MANY HOURS OF WORK (INCLUDING OVERTIME) DO YOU THINK ARE SUITABLE FOR YOU?"*

Desired working hours (including overtime) per day	China (N=390)		Vietnam (N=348)	
Fewer than 8 hours	1	(0.3%)	3	(0.9%)
8 hours	156	(40.0%)	287	(82.5%)
9 hours	23	(5.9%)	10	(2.9%)
10 hours	143	(36.7%)	15	(4.3%)
11 hours	48	(12.3%)	0	(0.0%)
12 hours	19	(4.9%)	2	(0.6%)
More than 12 hours	0	(0.0%)	31	(8.9%)

The question then is: Why would Vietnamese workers not want to work more hours, and why would Chinese workers not want to work fewer hours? As I will show, the number of hours they desire to work is influenced by their actual work hours and other external factors.

GAPS BETWEEN ACTUAL AND DESIRED WORK HOURS

Tables 5.6 and 5.7 show the relationships between workers' actual and desired work hours. The cells in table 5.6 are divided into three parts: the upper triangle, the diagonal, and the lower triangle. Cells in the upper and lower triangles represent workers who are dissatisfied with their daily actual work hours. While the cells in the upper triangle represent workers' desire to work longer hours than they

TABLE 5.6 Relationship between actual and desired work hours, Chinese workers (N=390)

		DESIRED WORK HOURS							
		<8hr	**8hr**	**9hr**	**10hr**	**11hr**	**12hr**	**>12hr**	**Grand total**
Actual work hours	**<8hr**	0.0%	0.3%	0.0%	0.0%	0.0%	0.0%	0.0%	**0.3%**
	8hr	0.0%	1.0%	0.0%	0.5%	0.3%	0.0%	0.0%	**1.8%**
	9hr	0.0%	0.3%	0.3%	0.0%	0.0%	0.0%	0.0%	**0.5%**
	10hr	0.0%	11.5%	2.6%	4.6%	0.0%	0.3%	0.0%	**19.0%**
	11hr	0.0%	11.0%	2.6%	12.8%	0.5%	0.3%	0.0%	**27.2%**
	12hr	0.3%	13.1%	0.0%	16.7%	10.8%	3.6%	0.0%	**44.4%**
	>12hr	0.0%	2.8%	0.5%	2.1%	0.8%	0.8%	0.0%	**6.9%**
	Grand Total	**0.3%**	**40.0%**	**5.9%**	**36.7%**	**12.3%**	**4.9%**	**0.0%**	**100.0%**

TABLE 5.7 Relationship between actual and desired work hours, Vietnamese workers (N=349)

		DESIRED WORK HOURS							
		<8hr	**8hr**	**9hr**	**10hr**	**11hr**	**12hr**	**>12hr**	**Grand total**
Actual work hours	**<8hr**	0.0%	0.3%	0.0%	0.0%	0.0%	0.0%	0.0%	**0.3%**
	8hr	0.3%	25.8%	0.0%	0.9%	0.0%	0.0%	4.3%	**31.2%**
	9hr	0.0%	8.0%	2.0%	0.0%	0.0%	0.3%	0.6%	**10.9%**
	10hr	0.0%	23.2%	0.0%	2.3%	0.0%	0.3%	2.9%	**28.7%**
	11hr	0.0%	2.6%	0.0%	0.3%	0.0%	0.0%	0.0%	**2.9%**
	12hr	0.3%	20.9%	0.9%	0.9%	0.0%	0.0%	1.1%	**24.1%**
	>12hr	0.3%	1.4%	0.0%	0.0%	0.3%	0.0%	0.0%	**2.0%**
	Grand Total	**0.9%**	**82.2%**	**2.9%**	**4.3%**	**0.3%**	**0.6%**	**8.9%**	**100.0%**

actually perform, the cells in the lower triangle represent the opposite—workers want to work fewer hours. The diagonal cells indicate workers were satisfied with their daily actual work hours and did not want any changes.

Much can be gleaned from these two tables. Whereas only 1.7 percent of Chinese workers are in the upper triangle, 88.4 percent are in the lower triangle. That means the overwhelming majority of the Chinese workers surveyed desired to work fewer hours. Although table 5. 5 shows that 59 percent of Chinese workers thought working nine hours or more was suitable for them, it is erroneous to conclude that Chinese workers' willingness to do more overtime was high. By correlating their actual work hours with their desired work hours, it can be seen that most of the Chinese workers who wanted to work nine hours or more a day on average worked very long hours of up to eleven hours or more a day. It was 49.7 percent of this group of workers who actually wished to shorten their daily work hours, say from twelve hours to ten or nine hours. It is equally striking that few workers were content with their actual hours—only 10 percent of the Chinese workers are in the diagonal cells.

If Chinese workers are not so keen on working very long work hours a day, how about Vietnamese workers? What table 5.7 shows is a similar but subtly different picture in Vietnamese workplaces: 59.4 percent of Vietnamese workers are in the lower triangle, meaning that they wanted to work fewer hours daily; and 10.7 percent of Vietnamese workers are in the upper triangle, meaning they wanted longer hours. Although the percentage difference between the upper and lower triangles is not as large as in the Chinese case, a majority of Vietnamese workers still wanted to work fewer hours, similar to their Chinese counterparts. Closer examination reveals more nuances here. Almost all Vietnamese workers currently working nine hours or more a day wanted to work only eight hours daily. The 30.1 percent of Vietnamese workers who were satisfied with their current actual work arrangement (represented in the cells in the diagonal) overwhelmingly wanted to work *only* eight hours daily and no more.

Why would so many Vietnamese workers want to work only eight hours a day? Working only eight hours means having no overtime on a normal workday. Why wouldn't Vietnamese workers want to work overtime given that many thought they needed to earn more to meet basic needs? The answer lies in the Vietnamese Labor Code. The Vietnamese Labor Code stipulates a six-day workweek (vis-à-vis five-day workweeks in Chinese workplaces), so that working overtime means: (1) working nine hours or more daily, and/or (2) working seven days a week without having any rest day. Obviously, the latter is too exhausting and impractical. It also violates Vietnam's Labor Code, which states that workers should be given at least one rest day within seven consecutive working days. On closer

examination, however, the former arrangement is also unacceptable to workers in reality. Like Chinese factory management, Vietnamese management also does not pay workers the overtime rate between Monday and Saturday in accordance with the Vietnamese Labor Code. Discouraged by not gaining much from working overtime, Vietnamese workers simply refuse to work overtime hours on normal working days. This explains why Vietnamese workers, despite thinking their received wages were unable to support their monthly family expenditure, still did not want to work overtime hours. Finding no way out, Vietnamese workers resort to another way to relieve their plight—going on strike to demand higher basic wages.

But if Vietnamese workers can go on strike to demand higher basic wage, why won't Chinese workers do the same? Anita Chan and I elsewhere have argued that trade union attitudes toward collective action play a crucial role in this.[20] Vietnamese trade unions are more sympathetic to workers and usually side with workers when strikes break out. Chinese trade unions are suppressive, or at least not supportive of strikes, and side with management.[21] Therefore, striking is not a viable option for Chinese workers.

In short, by comparing the relationship between workers' actual and desired work hours, we discover that in both countries workers desired to work fewer hours daily. The willingness to work overtime is the result of a complex bundle of interrelated factors: factory overtime policy and compensation arrangements in practice, labor law differences, trade union attitudes, and workers' readiness to go on strike.

Living Standards

In the previous three sections, I have explored the impact of labor laws, working conditions, and their relationship with workers' desires. In this section, I shift our attention to the relationship between wages and living conditions. No matter how many hours a worker puts in each month, he or she receives monetary compensation at the end of each month. In Marxist terms, a wage is the transformation of work hours into money. Wages in the form of money allow workers to sustain themselves and their next generation. To sufficiently reproduce his or her labor power, a worker's wage has to be at least enough to cover housing, nutrition, and children's education.[22] The legal minimum wage of a country whose economy has a large external trade sector can be regarded as the price set by its government to sell its citizens' labor power to foreign countries in the global labor market. Domestically, the legal minimum wage is also considered by a country as the minimum amount required for a basic livelihood.

Thus, let us look at the legal minimum wages in China and Vietnam. Figures 5.2 and 5.3 show changes in the legal minimum wage in Greater Shenzhen (1993–2011) and Greater Ho Chi Minh City (2000–2011), respectively, since minimum wages were first introduced. The legal minimum wage has increased in both regions. The standard of living of workers (as measured in terms of the legal minimum wage) in both metropolitan regions has doubled since 2004: when adjusted by consumer price indices, the real minimum wage has increased 1.5 times in Shenzhen and doubled in Ho Chi Minh City since 2004. The graphs give the impression that the living standards of Vietnamese and Chinese migrant workers have been improving. But, as I pointed out earlier, Chinese workers are satisfied with their present earnings whereas Vietnamese workers are not (fig. 5.1). Chinese workers generally regard their wage as being enough to support their basic family expenses, but this is not the case for Vietnamese workers. Vietnamese workers want a higher wage to meet family expenditures. What explains the divergent attitudes toward wages and family needs in both regions?

The issue at stake is not whether a higher minimum wage per se can lead to an absolute improvement in living standards. It could theoretically do this; but the crux of the matter is whether the absolute increase can translate into an improvement in various aspects of workers' material living conditions. Raising the minimum wage alone is inadequate to raise living standards. This is vividly demonstrated in the case of Vietnam between 2000 and 2011. Despite the Vietnamese government's efforts to increase minimum wages since 2005, runaway inflation

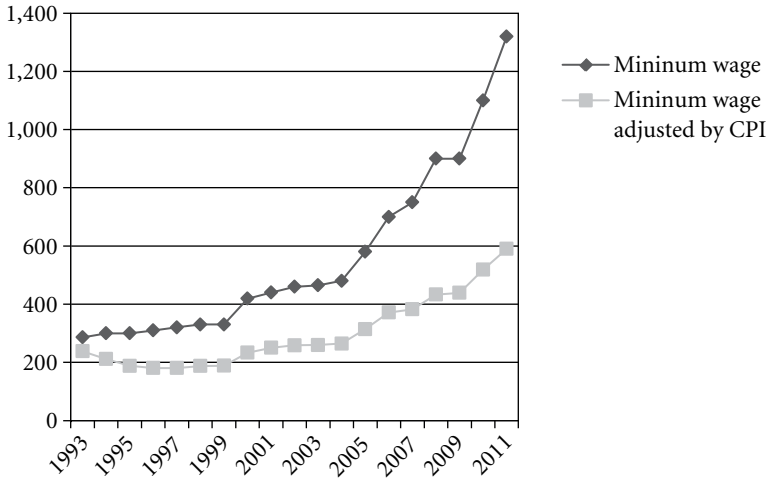

FIGURE 5.2. Legal minimum wage in Greater Shenzhen, Guangdong Province, China (1993–2011).

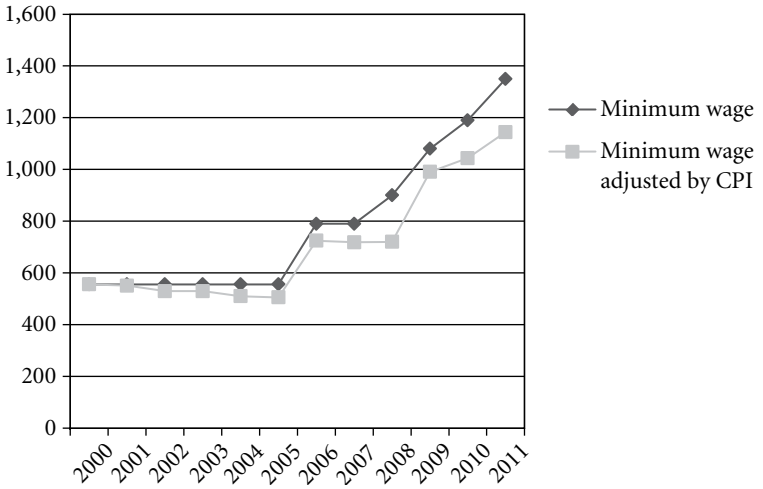

FIGURE 5.3. Legal minimum wage in Greater Ho Chi Minh City, Vietnam (2000–2011).

has offset a lot of these increases and indeed contributed to the upsurge of labor strikes in Vietnam between 2006 and 2011.[23] Additionally, because the government increases the minimum wage only once or twice a year, there is always a delay between the minimum wage increase and its implementation at the factory level. By the time workers receive their wage increase they have already suffered from the effects of high inflation for at least a few months.

This gap is illustrated in figure 5.3 for the years 2006–9 when inflation soared to more than 20 percent; there was an absolute decrease in workers' real minimum wage (adjusted by consumer price index) during this period, and workers' purchasing power was substantially curtailed. If we take Vietnamese workers' living standards for the difference between the years of 2005 and 2006 into account, what we observe is that in 2005 Vietnamese workers' lives were apparently improving owing to an increase in the minimum wage. But, suddenly, beginning in 2006 they encountered an apparent three-year setback in their living standard (as represented by the gap between the two lines in fig. 5.4 between 2006 and 2009). Inflation was very high, rising from month to month. A detailed longitudinal study by two scholars at the Vietnam Academy of Social Sciences led to a similar observation:

> Workers have suffered from a terrible increase in the cost of living, especially migrant workers in big cities like Ho Chi Minh City and Ha Noi. The cost of rent, water, electricity and food has continuously increased this year. When taking into account the slippage in prices [inflation], workers' real income has increased slightly. For newly recruited workers

> or those with low productivity (those at the lowest income level), their real income even went down.[24]

When workers compare their objective material conditions from one month to the next, it leads to the observation of there being a "relative decline in living standards." Next, I will focus on two major consumption items—housing and food—and how they affect workers' living standards.

HOUSING

A decade ago, most migrant workers in Shenzhen lived in factory dormitories. But in the past decade, a radical transformation has taken place. Many local villagers have demolished their old houses and built six- or seven-story rental buildings for migrant workers near the factories where the latter work.[25] Now clusters of these multistory buildings in China's industrial areas are called "migrant worker villages" (*mingongcun*). Most migrant workers choose to live in these multistory buildings to avoid the rules and regulations of factory dormitories. Couples, in particular, prefer to rent these apartments to enjoy some privacy.

When I did my fieldwork in Shenzhen in 2010, I lived with three male migrant workers in one such apartment. Such living arrangements are very common. The apartment was about 50 to 65 square feet. It was just a five-minute walk to the factory. Inside the apartment, there were some basic facilities—a 6 by 6 foot wooden bunk bed, water supply, electricity, and a toilet. All the cookware and furnishings, including the television, wardrobe, small dining table, and several low stools, were second-hand. There was no hot water. Such simple living quarters cost about 350 yuan a month (including utilities). This took up 30 percent of a worker's minimum wage. With several workers or a couple sharing one apartment each would pay 90 to 120 yuan a month (8–10% of their monthly income). In addition, as demand for these apartments is quite high, landlords increase the rent frequently. One worker with whom I shared the apartment said, "The landlord always increases rents before the legal minimum wage increases. Sometimes, when the landlord hears of any wage increase in nearby factories, he increases rents too."

In 2010, a journalist reported the difficulty that migrant workers encounter when trying to rent an apartment in Shenzhen and how the rents had shot up drastically in some areas:

> Renting an apartment is even more difficult than finding a job! In the past two months rents in Shenzhen has risen generally, particularly in migrant workers' communities. It is not only the continual rise in rents, but the shortage of apartments is also severe . . . Now in Tong Mei Village [a village next to the village where I conducted my fieldwork] apartment

> rents increased from 70 or 80 yuan in October last year to 280 yuan now—a total of 300 percent.[26]

To save on rent, workers try to squeeze into smaller living spaces. I personally had an extreme apartment-sharing experience. To further save money, my roommates decided to share the bunk beds, and we slept in shifts. Day-shift workers slept at night and night-shift workers slept during the day. I was counted as a day-shifter and shared the bed with another day-shift roommate at night. During public holidays when no one was working, because the upper deck of the bunk bed was already being used to store luggage and other belongings, three of us had to share the lower deck of the bed, and one of my roommates had to sleep on the floor. Given the size of the bed, three men of average build could barely manage to sleep side by side. Sharing the apartment this way, the monthly rent of 350 yuan divided four ways amounted to 88 yuan a month each or about 5 percent of a monthly salary. As my survey found, the average migrant worker working in a garment factory spent about 8 percent of his or her monthly salary (about 144 yuan a month) on rent. In this sense, Shenzhen workers are still able to find relatively new and "affordable" housing.

Compared to migrant workers in Shenzhen, migrant workers in HCMC seem to have poorer overall housing conditions. According to the UN's "Urban Poverty Assessment" in September 2010:

> More than 61 percent of migrants have an average living area under 6 square meters/person. Indeed, one-third of migrants are living in space that amounts to less than 4 square meters/person. . . . Poor housing conditions, particularly sharing rooms, tenements, boarding-house accommodation, shacks, and temporary shelters, are widespread among migrants. More than half live in a share room, dormitory, or rented space, and 3 percent are in temporary tents or shacks.[27]

The quality of housing shared by Vietnamese workers is lower than that of workers in Shenzhen. According to the report, migrant workers' housing expenditure is about 17 percent of their total monthly income. My survey also shows that a Vietnamese migrant worker in a garment factory spent about 12.4 percent on housing vis-à-vis his/her Chinese counterpart's 8 percent. Housing takes up a larger proportion of Vietnamese workers' wages. The quality and facilities of Vietnamese workers' housing is also inferior. In summer 2011, I visited a migrant workers' housing community. There I saw many "*nhà trọ*"—boarding houses located in dark and poorly ventilated alleys between old buildings. Each alley was lined with ten to fifteen boarding houses of 33 to 66 square feet each. There was neither a water supply nor toilet inside the houses. One big bed took up half of the space, and the only other piece of "furniture" was a plastic bag for

hanging clothes. I was told by an anthropologist that what we saw were the best boarding houses.

In 2010, a Vietnamese reporter disguising herself as a migrant worked in two foreign-invested factories in the Linh Trung industrial area and outer HCMC altogether for twenty days. Here is her vivid description of how women migrant workers lived:

> After long hours of work, massive crowds of exhausted workers flooded out from the factory gate. Ah Fong is one of them. Although she is still young, she already has wrinkles on her face. She rode her bicycle to her rented room located on the fourth floor. Except for words like "Poor worker" and "I've had enough!" painted on the wall by the previous tenant, nothing else can be found on the wall. Very quickly, Ah Fong fell asleep. . . . She told us, "We choose to leave home to make a living, so we have to work hard like cows. I know it is unhealthy to do overtime work. But if I don't, after paying for rent and food, I have no money to send back home."[28]

From reading various reports and from my own observations, it can be generalized that housing conditions for migrant workers in HCMC are generally poorer than in Shenzhen—in terms of space, facilities, and rent. But housing is just part of workers' misery. Food is another.

FOOD

In the report written by the undercover Vietnamese news reporter, a very common but horrible problem faced by Vietnamese migrant workers is food poisoning. Food poisoning and low-quality food in factory canteens have become such serious problems that the Vietnamese government has had to blacklist factories that have frequent outbreaks of food poisoning. In August 2011, a government circular, the Ministry of Labour, Invalids and Social Affairs (MOLISA) demanded that provincial governments set up working groups to inspect workers' living conditions and food quality and to carry out more inspections of factory canteens and lunch box suppliers. This kind of campaign indicates that the situation is quite serious.[29] Here is the reporter's description of how workers have to put up with shoddy food:

> Workers can never forget their first meal in factories. Every person gets a plate of rice, congee, and salted vegetable from the kitchen. But all the food is cold and made of very cheap ingredients. No full leaf can be seen in the congee; the rice is cooked so poorly that it is tasteless. After you finish eating, you still feel hungry. A worker, Ah Yin, from a footwear

> company explained, "They just buy the cheapest fish from the market and cook it with soy sauce or fish sauce. Pork and bamboo sprouts were cooked together but cooked so badly that you don't want to eat them when you see them. The dishes smell bad too."[30]

Food poisoning and low-quality canteen food are common flashpoints for triggering strikes. Quantity and quality were serious problems. The news reporter continued, "Although women workers work long hours, their wages are still very low. Food quality is bad. In some factories, workers went on strike to demand fewer work hours and higher wages. Employers always make promises but then forget about them. Because of their long working hours and lack of nutritious food, many workers faint while on the production lines."[31]

In contrast, in February 2010, when I went to a factory in Shenzhen to have lunch in a factory canteen, I got three dishes and a huge bowl of rice in my lunch box, more than I could eat. There was no problem with quantity. As for quality, though there was little meat, the vegetables and tofu were well cooked (but with too much oil for my taste). But undoubtedly, Chinese factories generally provide ample food that is of a higher quality and more nutritious for their workers than that provided in Vietnamese factories. Food poisoning does occur sometimes, but not as often as it does in Vietnam. During my experience of living with migrant workers for half a year I regularly cooked lunch and dinner for them, which gave me a good sense of the budget they could allocate for a reasonably balanced diet. In my survey, Chinese workers on average spent 36 percent of their monthly wages on food compared to Vietnamese workers who spent only 16 percent. Each country's official statistics for monthly major food consumption items reflect this big difference. Rice and vegetables are the two major food items for workers in both Vietnam and China (figs. 5.4 and 5.5).[32] Between 2002 and 2008, however, there was a decline in rice and vegetable consumption in the diet of Vietnamese workers that was not compensated for with other food items (fig. 5.4). In contrast, the diet of Chinese workers is more diversified (fig. 5.5). Although Chinese workers eat only half the amount of rice as their Vietnamese counterparts, this is compensated for by other nutritious items. Chinese workers consume twice the meat, four times the vegetables, six times the fruit, seven times the eggs, and three times the amount of oil and fat as Vietnamese workers. In short, not only is the diet of the Chinese workers more diversified but it is also more ample than that of Vietnamese workers.

In sum, by comparing Vietnamese and Chinese workers' housing and diet, we understand why Chinese workers are relatively more satisfied with their present earnings than Vietnamese workers. Although the lives of the Chinese garment workers surveyed in this study cannot be described as good, at least they feel that they have enough to eat to labor hard every day and that they can even save a bit

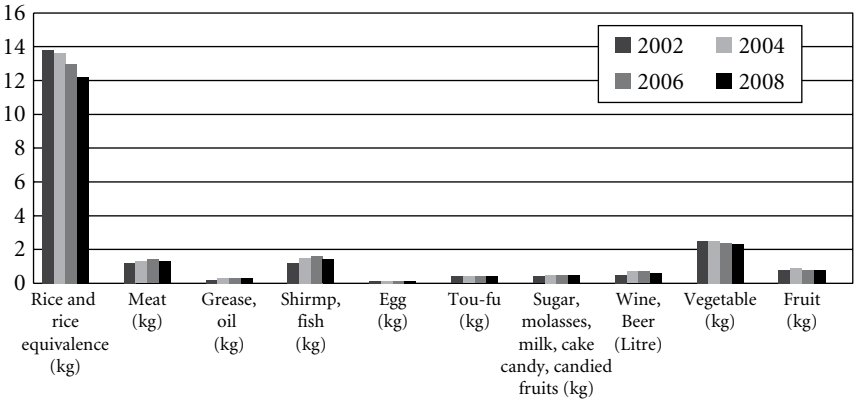

FIGURE 5.4. Consumption of major food items per capita per month in Vietnam (3rd income quintile, whole country: 2002–8). Sources: Vietnamese Household Living Standard Surveys, General Statistics Office, Vietnam (2002, 2004, 2006, 2008).

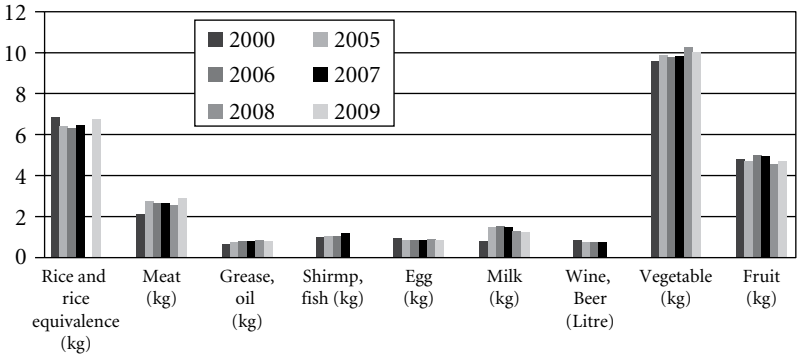

FIGURE 5.5. Consumption of major food items per capita per month in China (3rd income quintile, China: 2000–2009). Sources: National Bureau of Statistics, *Chinese Statistical Yearbook* (2000, 2005, 2006, 2007, 2008, 2009).

of money if they share apartments with others. In contrast, in addition to being constantly haunted by inflation, Vietnamese workers have bad housing and eat meager amounts of poor quality food that may even cause food poisoning or lead to malnutrition.

Connecting Working Conditions and Workers' Lives

In this chapter I have presented evidence showing how the working conditions in garment factories in China and Vietnam differ in terms of monthly work hours.

Comparative fieldwork revealed that Chinese and Vietnamese workers alike are still undergoing hardship, albeit in different ways. Chinese workers, while eating and living better, have to face harsher working conditions, particularly in terms of excessively long working hours; Vietnamese workers, who work slightly fewer hours on average, have to struggle bitterly to even meet their basic needs in terms of food and shelter for themselves and their families.

Legislation on work hours is shown have an impact on working conditions. Vietnam's labor legislation contains many loopholes that disadvantage its workers, whereas Chinese labor legislation is slightly better but decentralized and poorly enforced. Chinese workers have longer monthly work hours, fewer days of rest, and more illegal overtime hours. The varying conditions in the two countries are largely the consequence of differences in the legal maximum regular work hours, "working week" definitions, overtime work compensation methods, centralized versus decentralized labor law systems, labor law violations, and labor-management policies. This marked difference in labor legislation and implementation in the two countries highlights the important role of the state. Implementation depends on a state's labor policy and how it strikes a balance between attracting more foreign capital and its responsibility to protect its workers from excessive exploitation. What we have discovered here is that each of these postsocialist countries has a different way of allowing foreign investors to exploit workers. Both countries tip the balance toward capital at the expense of workers' interests.

We have seen that several other subjective and objective factors contribute to the differences in labor standards in China and Vietnam. The first is workers' desire to work longer hours to meet their basic needs or to make a bit extra to live a slightly better life. In China, employers always defend their excessive overtime demands by arguing that it is the workers themselves who want to work extra hours. The results of our survey disprove this claim, however, and suggest that Chinese workers actually want to work *fewer* hours. The misconception that Chinese workers want to work overtime is due to the combined effect of the mandatory overtime policy and workers' weak bargaining position. In contrast, Vietnamese workers are not interested in working more hours; once they have reached the limit they feel they have worked enough. Most of them regard an eight-hour day as the maximum and do not want to work any overtime hours. Also of importance are the differences in the two countries' overtime compensation in practice and trade union attitudes. Low and underpaid or illegal overtime compensation discourages Vietnamese workers from working longer hours; underpayment drives them to go on strike to demand higher basic wages, actions sympathetically supported by Vietnamese trade unions, which is unlike the attitude of the trade union in China.

Finally, we have seen how rising legal minimum wages as a measure of living standards in both countries does not necessarily translate to improvements in workers' objective material conditions, especially when there is a lag between the rate of inflation and the timing of the increased minimum wage. Hence, in Vietnam, despite continually adjusted increased legal minimum wages in the past few years, migrant workers still face terrible housing and food conditions and have no means of coping. Such frustration turns into anger, causing Vietnamese workers to frequently go on strike in recent years. In comparison, Chinese migrant workers at least have enough to eat at the factory and live in slightly better housing without threats of starvation and malnutrition or having to sleep in makeshift shelters. This also explains why China's industrial relations are comparatively peaceful. Though sporadic strikes do take place, their scale and frequency does not match those in Vietnam.[33]

The combined effect of all these factors explains why working conditions differ in China and Vietnam. Research on this topic has generally overlooked the dynamic interaction between labor legislation, workers' objective working and living conditions, and workers' subjective perceptions of these conditions. Here we have seen that an analytical framework that encompasses workers' lives both in the domains of production and consumption adds to our understanding of what drives workers to resort to strikes.

6

RACE TO THE BOTTOM

The Soccer Ball Industry in China, Pakistan, and India

Anita Chan, Hong Xue, Peter Lund-Thomsen, Khalid Nadvi, and Navjote Khara

It has been almost two decades since an antisweatshop movement emerged in the early 1990s, exposing very low wages and poor working conditions in the factories in the world's South that manufacture for big brand-name companies in the global North. The movement comprised a range of nongovernmental organizations (NGOs), faith-based groups, trade unions, and activist student organizations in the global North. The main targets then were sporting goods companies such as Nike, Reebok, and Adidas. Worried about their brand images, these companies finally recognized their responsibility to remedy the exploitative work conditions, and they quickly drew up corporate codes of conduct and promised to rein in their suppliers. To ensure that their suppliers complied with the corporate codes, they turned to an elaborate monitoring system.[1] As a result, a new industry of monitoring firms offering factory-inspection services flourished in the global South.[2] Any infractions that were uncovered might, if left unaddressed, lead to the cancellation of orders. Similar monitoring systems proliferated around the world, with multinational buyers taking the lead role and making the rules for monitoring. As a result, an unequal top-down power relationship binds the big brand names and their suppliers. There emerged the concept of "supply chain governance" and a subdiscipline in academia devoted to studying this buyer-supplier relationship, the success and failure of the monitoring system, and the labor conditions of the workers who make the products within the chains. [3]

Has this "corporate social responsibility" (CSR) monitoring, however, improved labor standards for the supply-chain workers? Some studies have pointed out that the new labor-practice codes have led to improvements in workplace safety but have a limited impact on wages and workers' rights.[4] The CSR initiatives do not challenge the existing commercial practices or embedded social relations that underpin poor labor standards in global production systems.[5] The widespread implementation of CSR has also failed to lead to a fairer distribution of wealth in the production chain; instead, corporation profits have increased while workers' wages have decreased.[6] The key reason is that both the multinational brand corporations and their suppliers' business activities are driven by the same profit-maximization motive, and the easiest way to cut costs is to lower wages, which was why the global production chain emerged in the first place. The brand-name corporations encourage their suppliers to relocate to countries that offer the optimal investment climate. The supplier companies look for countries where wages are low and that can provide adequate infrastructure, tax concessions, a compliant workforce, and a stable political environment. Suppliers have to compete with one another to sell at the best possible price to buyers. Host governments compete to attract foreign investors to set up shop in their countries by offering all kinds of deals to potential investors. Among these deals are low wages expressed in a low legal minimum wage or lax enforcement of labor laws. This sets in motion a race to the bottom in labor standards. The corporate codes of conduct and the CSR initiative in essence militate against the same corporations' overall strategies to enhance profits. At the same time, CSR sits uncomfortably on the agendas of the brand-name corporations and their suppliers, implanting an inner tension between them.

In many studies, the main focus has been on the suppliers' level of compliance with the multinational buyers' demands. The antisweatshop movement focuses on the multinationals' tacit permission to let their suppliers violate their codes of conduct.[7] Scholarly studies tend to revolve around the issue of supply-chain governance. We have alluded to the roles played by host states that have the power to establish legal standards. The state is a player external to the chain and, oddly enough, has been ignored by both kinds of literature as a key player. In this chapter, we want to bring the role of the state back into the analysis of supply chains. We will also show how the race to the bottom works in one industry in cross-border settings, as most on-site supply-chain studies are restricted to one host country's production sites. For instance, we ourselves have written articles that focus entirely on China.[8] This chapter, by comparing the production of soccer balls in three countries, presents the issue in a different light.

We first briefly describe the history of the soccer ball global-export industry and then explain how state regulatory regimes shape the mode of production,

the type of workforce, and the labor standards in each of the three countries. We also show that in the competition to cut costs, the suppliers ran the risk of violating the brand-corporations' codes of conduct, resorting to the types of labor condemned by international labor-standard setters—child labor and prison labor. To rectify these problems, multinational buyers have firmed up their monitoring mechanisms, but we argue that the solutions, a more stringent monitoring system and the establishment of so-called stitching centers where small groups of home ball stitchers come together to stitch rather than stitching at home, constitute window dressing that serves to perpetuate exploitation.

The Soccer Ball Industry

The soccer ball industry is not one of the world's largest industries. But because competitive soccer is intermeshed with national pride that can elevate millions of sports fans around the world to fever pitch once every four years with the World Cup, the antisweatshop movement took advantage of a potent opportunity and has launched exposé campaigns around the time of each World Cup, targeting the poor labor conditions endured by the workers who make sportswear and sporting goods for companies such as Nike, Adidas, Reebok, and New Balance. One obvious product is soccer balls. Work conditions in the soccer ball industry became entangled in a controversial labor scandal—the use of child labor in a city long famous for its production of the world's best soccer balls.

Twenty years ago, Sialkot, a city in northeastern Pakistan, was the center of the world's production of high-quality hand-stitched soccer balls. In 2010 it exported thirty million balls, or about 70 percent of the global output of hand-stitched soccer balls.[9] In the mid-1990s the widespread use of child labor in the manufacture of soccer balls for the major sports brands was uncovered in Sialkot, instigating a worldwide outcry. The International Labor Organization (ILO), the peak international tripartite association of states, employers, and unions, entered into the picture with urgency and facilitated the signing of the so-called Atlantic Agreement in 1997. This led to the establishment of a multiple stakeholder monitoring system to eliminate child labor. This scandal forms the backdrop to this chapter. Fifteen years on, what has happened to child labor and to labor conditions in general in the Sialkot soccer ball industry, and what has been the effect elsewhere, including China?

There are, in total, four major centers of soccer ball production in the world, Pakistan, China, India, and Thailand, and we have carried out on-site research in all but Thailand. In addition to Pakistan's Sialkot and several sites in China, we conducted research in the city of Jalandhar in northwestern India, just across

from the India-Pakistan border and not far from Sialkot. A Jalandhar soccer ball manufacturing cluster was set up in 1947 by Sialkot's skilled Hindu craftsmen, who had fled there after the post-Independence partition. Jalandhar, however, has always been a smaller-scale producer in the industry. The newest center of production, a rising star, is China, whose soccer balls began to enter the global market as of the early 1990s. The stage was set for competition among these production centers for market share in the global soccer ball consumer market. In charting the rise and fall of this industry in three of its four major regions, we want to recenter the debate on the global production chain by emphasizing the role played by the state, and how, together with the lead firms, the state's actions set in motion a race to the bottom in labor standards.

This chapter is part of a larger study of the soccer ball industry.[10] All five team members have visited one or all of the three field sites, in some cases multiple times. Peter Lund-Thomsen headed much of the research effort, especially in Sialkot. Between 2009 and 2010, the team interviewed high-level staff members of several sporting goods brand-name companies (in the United Kingdom, Europe, Hong Kong, and Guangzhou in China), employers' associations, NGOs in Sialkot and Jalandhar, a large number of supplier-factory owners and managers, several subcontractors, several trade union officials, and workers. We conducted a total of 127 individual open-ended questionnaire interviews with soccer stitchers in Pakistan, India, and China.[11]

A History of Soccer Ball Production

If one has to make a distinction in the history of manufacturing during the past two centuries, it would be the shift from largely making things by hand to making things with the aid of machines—the former by individuals at home or in small groups in cottage industry settings and the latter mass-produced in factories. Today almost all goods are made in factories except for handmade goods for niche markets. Soccer balls are unusual in that in the international global market, until a few years ago, hand-stitched balls constituted a large percentage of the global market and had been regarded as superior in quality.[12]

Hand-stitched balls made for export in Asia can be traced to the late nineteenth century when Sialkot began to produce handmade leather and wooden sporting goods for the ruling British. Production rapidly grew, and Sialkot dominated the production of the world's soccer balls for more than a hundred years. Before the invention of synthetic material, the thirty-two panels that were stitched together to make the ball were made of very tough leather. Because men are physically stronger than women and children, they were the main stitchers.

As of the end of the 1970s, polyurethane (PU) and polyvinyl chloride (PVC) synthetic materials that are softer than leather came to replace natural leather. In the 1980s machinery began to be used to punch holes in the panels, making sewing up the panels much easier. These two technological upgrades ushered in the use of women workers and child labor.[13]

The soccer ball market has grown enormously since the 1970s, and hand stitching could not keep up with the demand. But not until 1997 was a machine-stitching technology for soccer balls invented in China. The mass production of sewing machine–stitched balls was first introduced at a factory of Top Ball Corporation, an Adidas supplier in Shenzhen.[14] This cheaper and highly efficient form of factory-based sewing-machine production quickly spread and led the industry into an era of mass production. Hand-stitched balls, however, continued to be considered superior. They were more expensive and were used in professional and amateur league matches. This allowed hand stitching to survive in Sialkot and Jalandhar. Both types of production exist side by side: hand stitching in South Asia and machine stitching (supplemented by some hand stitching) in China.

Nonetheless, machine stitching is seriously undercutting the market for hand-stitched balls. How can it be otherwise, when sewing machine–stitched balls can be produced by a factory worker at seven to eight times the speed of hand-stitched balls? At the most, hand stitchers can make five balls a day; in factories workers can produce up to thirty-five to forty balls a day.[15] It has been nearly two decades since China began supplying the global market with machine-stitched balls, yet only recently have any Sialkot producers reacted to the challenge.

A few entrepreneurs now understand that to survive they need to adopt modern technology and mass-produce the balls. Under the urging of and assistance from multinational corporations that want to diversify their sourcing channels in South Asia, these Pakistani soccer ball employers have gone to China to learn more about factory production. As of 2011, four machine-stitching factories have been established. If the four pioneer factories are successful, and more of the Sialkot industry adopts mass production, the city may ultimately catch up with China in production technology. At present, however, the majority of the South Asian soccer ball workforce is engaged in hand stitching.

In 2000 a new production technique in soccer ball manufacturing known as thermal bonding was invented by Adidas. This is an automated technology that molds the soccer ball panels together using intense heat into seamless spheres of consistent quality untouched by human hands.[16] These became top-end official match balls in international sporting events: the Euro Tournament in 2004, the World Cup in 2006 and 2010, and the Beijing Olympics in 2008; they were used

again at the World Cup in 2014.[17] Initially, all of the thermal-molded balls were produced for Adidas by Molten, a Japanese corporation, at a factory in Chonburi, Thailand.[18] But Adidas soon added production of thermal-molded balls at a company in Shenzhen, China, which gained the production order for the 2010 World Cup. In 2005 Molten began moving much of its own production out of Thailand to a new large factory in Zhejiang Province, China. Nike also commenced using the same technology by way of a company in Shanghai. Hence, Sialkot in Pakistan has found itself increasingly out of the running for the very top end of the market. In response, one of Adidas's major suppliers in Sialkot is starting to produce thermal-molded soccer balls. But the great bulk of production for thermal-molded balls has already been captured by China.

In short, the upgrading of the production technology has dramatically changed market demands and the global market shares for manufacturers. As has been observed, the market has two poles. High-end balls are supplied to the big sporting goods brands for use in training and matches. Low-end balls go to large retail stores such as Walmart and Tesco for recreational use or for promotional purposes. At both ends of the market, mechanization and automation not only can raise productivity manifold but also produce higher-quality goods at a competitive cost. The traditional hand-stitched soccer balls now are increasingly limited to a niche market. The inability of most of the manufacturers in Sialkot and Jalandhar to catch up with the technologies of mass production has shifted the center of production to China and has forced contraction in the number of balls produced in Pakistan and India. Table 6.1 shows the shift in production in the last decade. Pakistan's hand-stitched balls occupy the low- and medium-to-high–end sectors of the market. Jalandhar is a smaller player in the low-to-medium–priced hand-stitched market. China has rapidly taken away much of the market share for low- and medium-priced balls by dominating the machine-stitched market as well as capturing much of the very top-end market

TABLE 6.1 Exports of soccer balls from leading producing countries, 2003–9 (USD)

COUNTRY	2003	2004	2005	2006	2007	2008	2009
China	176,097	229,038	272,900	348,420	394,044	501,873	454,446
Pakistan	112,531	184,225	185,641	225,910	161,149	160,492	118,425
Thailand	47,342	77,791	59,964	71,287	65,647	68,378	59,336
India	13,623	18,659	19,130	22,781		27,093	20,475
Total World Exports	627,970	792,607	835,748	984,297	955,520	1,149,146	900,101

Source: United Nations Commodity Trade (Comtrade) statistics, 2010, http://comtrade.un.org/db/ce/ceSnapshot.aspx?px=H2&cc=950662.

for thermal-molded balls.[19] The rise of China, overtaking Sialkot as the main production site in the world, came as a shock to both capital and labor in Sialkot and Jalandhar, two cities that have relied on the industry for livelihoods for so many years.

In this competitive global environment, what are the labor standards in these three major sites of production? Let us first examine the fundamentals. Hand-stitched balls can be made either in factories or at home. For home stitching, the panels are first cut and holes punched in factories, and subcontractors then deliver the panels and ball bladders to the home workers. Machine-stitched balls, in contrast, require a factory setting, though the factories can vary in size from large facilities with a few thousand workers to small ones with only a few dozen. In Sialkot and Jalandhar, where hand stitching predominates, the majority of the balls are made by home-based or center-based workers, though high-end hand-stitched balls sourced by big brands such as Nike tend to be made in a factory setting to ensure quality standards.[20] In China, the vast majority of the balls are mass-produced on machines by factory workers, though a modest amount of hand stitching still can be found in the Jiangsu region. The different types of workers are subject to very different labor standards, compensation rates, and living conditions. In general, home workers obtain lower pay than factory workers. In addition, workers in China tend to be better paid than those in the two South Asian countries. Based on our empirical data, for both these reasons, home workers in Sialkot and Jalandhar are mired in poverty, whereas Chinese factory workers, though still quite poor, are better off in terms of their wages. This difference is also the result of a host of complex histories and political, social, and cultural factors. For instance, the fact that South Asia has a caste system while China does not is an important difference. It is beyond the scope of this chapter, however, to discuss all factors. From our vantage point, examining the competitive advantages of countries, we would like to offer a factor that we believe is critically important but that has been neglected in extant scholarship—the role played by the state.

The Role of the State: The Importance of the Legal Regulatory Framework

In comparing labor conditions among the production sites in these three countries, the way each state shapes the political and social environment and its employment policies has an overarching impact on the country's economic and industrial development. Pakistan and India have variants of a neoliberal capitalist system, whereas China pursues what its government has labeled "market

socialism," in which the one-party state has a much more interventionist economic policy. The countries' legal regulatory regimes, fundamental for setting the parameters within which businesses operate, shape their employment and industrial relations systems. The state is an actor external to production-chain governance and may help or obstruct the all-powerful multinationals in their degree of profit extraction from the manufacturing processes of the host countries.

Lack of enforcement of labor laws is a universal problem, but it is usually more serious in developing countries. When the laws benefit business, capital exploits them to the full to maximize profits. When the laws are to their disadvantage, manufacturers try to find loopholes. In either case, the more stringent the laws for maintaining labor standards, the more constraints are imposed on capital. This section will outline the three countries' legal frameworks and will show that despite lack of enforcement, these laws have exerted an important influence on each of the countries' forms of work organization and the two main labor standards—wages and work hours.

Pakistan and India

First, in terms of forms of work organization in soccer ball production, both Sialkot and Jalandhar are dominated by home production, in which individuals stitch at home, or in a cottage industry setting where small groups of stitchers work side by side in "stitching centers" (more on these later). This was a brainchild of the Atlantic Agreement of 1997. Both the home workforce and stitching center workforce work individually, the former in more isolated conditions compared with factory workers. China's soccer balls, in contrast, are almost all made in factories where workers work together in shared production lines. We believe that this big difference in mode of production owes much to the each country's regulatory framework.

India and Pakistan have been shaped by a similar kind of legal framework, in part because these and other South Asian countries (India, Pakistan, Bangladesh, and Sri Lanka) have shared a common colonial history. In Pakistan and in India, at one stage there was a vibrant labor movement among urban factory workers. In Pakistan, when the labor movement became militant and began organizing across industries, it was suppressed by the regime. Labor laws passed in the late 1960s and 1970 deregulated labor at a time when globalization was gathering apace. The laws effectively divided labor into two categories: formal workers protected by the law and informal workers excluded from legal protection. As described by an ILO publication, labor policies were strongly "industrial relations–centric" in the sense of concentrating on labor relations that closely mimicked the West in the formal sector; industrial relations in the

unorganized sector were largely ignored.[21] In India the labor law also makes a legal distinction between the "organized" and the "unorganized" sectors. The "organized sector," which is protected, includes all public-sector organizations and all nonagricultural private enterprises employing ten or more workers, and various types of workers or workers of certain sectors are excluded from labor protection. [22] The laws work on the principle of exclusion, thus rendering the majority of the workforce unprotected. Some Indian corporations took advantage of this legal distinction. For example, a very large tobacco company shut down all of its factories and instantly laid off twelve thousand workers just months after the implementation of the new law in 1968. In the following years, employers hired home-based female workers in place of the largely male factory workers for the sole purpose of escaping legal responsibility for their workers.[23] According to one estimate, in India today only 7.6 percent of the workforce comes under the industrial relations system, and the other 92.4 percent are mostly employed in conditions without legal protection.[24]

In Pakistan, the Minimum Wages Act of 1936 covered industrial workers only in establishments with fifty or more workers. The Musharraf regime amended the laws to direct every employer to pay the legal minimum wage or higher to every worker regardless of the nature of the work. Owing to this law, the owners of shops, hotels, restaurants, and other establishments in the informal sector became bound to pay minimum wages.[25] But lack of enforcement is a serious problem, so much so that today, according to one estimate, 80 percent of factory workers are paid below the legal minimum wage, which means the new official minimum, raised to PKR7,000 ($84) per month, means little.[26] Worse yet, the informal and self-employed workforce, who make up 73 percent of the labor force,[27] are not covered by the Minimum Wage Act. Some home workers are still making PKR2,000 a month ($23) working ten-to-twelve–hour days. They would need to be recognized as "workers" before they could claim minimum wage coverage.[28]

The soccer ball industry suffered the same fate as many other labor-intensive industries, as employers avoided paying the legal minimum wage by dispersing production. In the 1950s, only about half of India's production of soccer balls for export was home based, but by the 1970s almost the entire industry had become home based. Sialkot experienced a similar trend. While Pakistani and Indian state policies tried to improve labor conditions for formal workers, including the right to unionize and collective bargaining, employers reacted by decentralizing production instead of building up a factory system to raise productivity.[29]

HOME-BASED PRODUCTION

Home stitchers work in isolation and have little bargaining power with their contractors. In Sialkot, both adult men and women who were engaged in home-based

stitching were paid at a piece rate of PKR20–30 ($0.25–0.30) per ball as of 2009. They usually worked six to eight hours, making about PKR100–125 a day (less than $1.50). The interviews conducted in Sialkot also revealed that the piece rate had not gone up for five years, and for some home workers far longer, despite high inflation.[30] A thirty-five-year-old woman home stitcher complained, "There is a lot of inflation these days, but the wage per ball doesn't rise. It is the same since I started working twenty years back—it was the same PKR25 per ball. There is inflation everywhere, but I wonder why inflation doesn't affect our wages."[31] Making so little, she had to terminate her daughter's studies because the family could not afford the PKR1,000 ($12.10) tuition fee. The home workers we interviewed led a hand-to-mouth existence. They have few domestic possessions and no savings. The rule of thumb is that the farther their home is from the city where the soccer ball panels are cut and punched, the lower their piece rate. Women home workers tend to be illiterate and have no recourse to improve their lot. During the interviews, they did complain, but they are resigned to their fate. We have yet to hear that home workers have gotten together to negotiate with the subcontractors for a higher rate. On the contrary, they are grateful to their subcontractors for bringing them the panels and collecting them when stitched. Subcontractors are lifelines they cling to in order to eke out a living. They are grateful that their subcontractor lends them or even gives them money when they are in urgent need of cash. A patron-client relationship with the subcontractor has inculcated a loyalty that inhibits them from threatening to change subcontractors as a bargaining chip to raise wages.[32] For instance, Saga Sports, a Nike factory supplier in Sialkot that was secretly "leaking" stitching to home workers, had such a patron-father image among the workers.[33]

In Jalandhar, India, home stitchers work and live in very similar situations to their counterparts in Sialkot. Both men and women stitch. Based on our fieldwork data, many stitchers have worked in the industry for more than thirty years, some even for as long as forty years. Most stitchers are totally dependent on stitching for a livelihood, with no alternative sources of income. Stitchers who are registered with suppliers are paid about INR26–30 per ball ($0.43–0.50), which is 20–40 percent above the rate in Sialkot. Most of the stitchers make INR100–125 per day ($1.66–2.08), amounting to INR2,700–2,800 per month ($55.8–57.9). The rates are fixed by firms or contractors and have not increased in ten years. In some cases, the rates have even decreased over the years because of diminishing orders. Because the exchange rate and piece rates are lower in Pakistan, multinationals make a higher profit sourcing from Sialkot than from Jalandhar. But, increasingly, orders for hand-stitched balls have been on the decline in both cities. Very often stitchers do not have enough balls to stitch for months on end, making it even tougher to make a living. It is very likely that one main

reason that the industry can survive better today in Sialkot than in Jalandhar is the cheaper labor in Sialkot.

How do full-time home stitchers' wages compare to the general wage levels in their respective countries? Both Pakistan and India have set minimum wages, not that these minimum wages have much relevance to how these home stitchers are paid, as discussed earlier. While minimum wages have gone up, home stitchers' wages have gone down. They are benchmarks to measure the living standards of the soccer ball stitchers. In Pakistan in 2008–9, the minimum wage was PKR6,000 ($72.70) a month, and in 2010 it was PKR7,000 ($84.80). But even if a Sialkot stitcher worked full-time six days a week, he or she could make only PKR3,000 ($36) a month, half the minimum wage. In India, the minimum wage system is detailed and complicated, and each state, trade, and skill level has its own minimum wage. In Punjab, where Jalandhar is located, the minimum monthly wage for the leather works industry, which encompasses soccer ball production, is divided into five skill levels, ranging from INR4,865 ($108) to INR3,876 ($89) a month in 2010–11.[34] So a Jalandhar stitcher working full time and making $58 a month earns about two-thirds of the lowest-level minimum wage for the industry, even though the stitcher earns more than the Sialkot stitchers. The low wages paid to these home workers pauperize almost the entire workforce of this industry, in what until recently were the major producers of the world's top-end soccer balls. The laws of the land of these two countries, we argue, inadvertently are responsible for and provide the conditions for an intense exploitation of their own people.

China

By contrast, Chinese laws do not encourage decentralization of the labor force. During the Maoist period the ideology that underpinned the planned economy dictated that the bigger the better. Cottage industries were regarded as "backward." Small entrepreneurs were denigrated as "petty bourgeois." When economic reforms began in the early 1980s the party-state encouraged local rural governments to attract Hong Kong investment by clearing agricultural land, set up the Shenzhen Special Economic Zone, and built factories for rent to foreign manufacturers. Economies of scale were encouraged. The Chinese Labor Law passed in 1994 set regular work hours at forty hours a week and capped overtime work at thirty-six hours a month. One important difference between this law and the Indian and Pakistani laws is that the Chinese Labor Law makes no distinction between the type of workers or the size or ownership of the workplace. The law does not categorize workers as formal or informal, organized or unorganized. Any individual who has entered into an employment relationship with an

employer theoretically comes under legal protection. Therefore, unlike in India and Pakistan, there was no incentive for employers to dismantle factories and start subcontracting to home workers. Subcontracting tier by tier down to the home does exist, but home production is dying out as factories take over production in bulk.

HOME-BASED PRODUCTION

There was hand stitching in China before machine stitching was invented, and, as in Sialkot and Jalandhar, most of it was done by home workers. There are two main soccer ball production centers in China—in Jiangsu and Guangdong Provinces. Jiangsu, near Shanghai, was the original hand-stitching center. At the peak of hand stitching in the soccer ball industry in 2005–7, there were so-called soccer villages where more than half of the rural women engaged in work related to this business. When we visited some of these soccer villages in 2009–10, almost all rural women between forty and sixty had once been home hand stitchers but not anymore.

In the late 1980s, rural women in northern Jiangsu (Subei) stitched soccer balls during slack agricultural seasons for subcontractors who got the orders from sporting goods factories in Nanjing and Shanghai. Stitching was not a full-time occupation, and orders were limited, which differed from the situation in Sialkot and Jalandhar. The women worked only three to five hours a day making about two or at most four balls to supplement their income. When the agricultural busy season approached, they would stop stitching altogether and spurn subcontractors' pleas to fill orders. Subcontractors did not have much power over their home workers, unlike their counterparts in Sialkot and Jalandhar.

According to interviewees in the Chinese soccer ball industry, Chinese home workers could not be relied on to deliver the balls on time, nor were they reliable in making quality products when compared to factory production. For all these reasons, in the late 1990s local sporting goods factories moved into northern Jiangsu to supply the expanding global market with machine-stitched balls. As mass production of machine-stitched balls grew, the market for hand-stitched balls shrank, and today it has almost disappeared. For example, a factory in Nantong in 2004 produced ten thousand hand-stitched balls a day; in 2009, it produced seven thousand machine-stitched balls and only two thousand hand-stitched balls.[35] When other industries, such as garments, textiles, and bags, arrived on the scene paying higher wages for workshop and factory work, many home workers abandoned ball stitching altogether.

Compared to Sialkot and Jalandhar, the payment per ball for home stitching in Jiangsu was considerably higher and had gone up gradually through the years. But still, the rate could not keep up with the annually adjusted legal minimum

wage paid at factories. And, as a result of an expanding economy and more job opportunities, Chinese hand stitchers have exit options and, for those who remain, some bargaining power. They are not subject to the same kind of patronage relationship with suppliers as in South Asia.

TABLE 6.2 Workers' profiles and labor conditions among home stitchers in three countries

		PAKISTAN (SIALKOT)	INDIA (JALANDHAR)	CHINA (NORTHERN JIANGSU)
Workers' profile	Gender	Female and male	Female and male	Only female
	Marriage	Unmarried or married	Unmarried or married	Married
	Age	Between 18 and late 40s	Adults of all ages, some in 60s	Mostly 40–60 year olds
	Education	Little or even illiterate	Little or even illiterate	Little or even illiterate
Labor conditions	Time per month	Full time, 6–8 hours a day, 6 days a week	Full time, 8 hours a day, 6 days a week,	Part time, no stitching during agricultural busy season
	Earnings per month	Rs2,700–2,800 ($32.70–33.90)	INR2,700–2,800 ($55.80–57.30)	RMB200–300 ($29.40–44.10)
Legal rights		None	None	None
Current unit price		PKR20–30 ($0.24–0.36)	INR25–30 ($0.52–0.62)	RMB4.0–4.5 ($0.59–0.66)
Change of rate		Rates almost have not changed in the last 5 years,	Rates almost have not increased in the last 10 years; in some cases, they have even decreased.	Twenty years ago, the rate was about RMB1.5 per ball; it then rose gradually to RMB4.5. The highest rate was during the 2006 World Cup, at about RMB4.5–5.5.
Use of wages		Daily household expenses; no savings	Daily household expenses; no savings	Household sideline production; pocket money

During our fieldwork in rural northern Jiangsu Province, only a few older home workers still wanted to stitch at the piece rate on offer. Instead, local stitching subcontractors have adopted a new means of fulfilling hand-stitching orders: they have turned to prison labor, which is gradually replacing home-based labor. A discussion of prison labor will follow in a later section.

FACTORY-BASED PRODUCTION

China's machine-stitching factories are concentrated in two provinces, Jiangsu and Guangdong. Guangdong in southern China does not have a hand-stitching history. It is the birthplace of machine stitching, which expanded quickly in the vibrant industrial region. Today, just three decades after the economic reforms that began in the early 1980s, the whole of the Pearl River Delta is crisscrossed by highways and hosts many thousands of foreign-invested companies with easy access to efficient ports. Jiangsu, the other major region containing soccer ball factories, similarly is crisscrossed by excellent highways leading to excellent ports. China is aware that good infrastructure is vital to attracting industrial investors, and the strategy works. Excellent industrial infrastructure and technological capacity have proven more important than having the lowest wages, and companies pour in and expand. The world's largest soccer ball producer today is Taiwanese-owned Top Ball Sporting Goods, located in both Guangdong Province and more recently Jiangxi Province, employing altogether about seven thousand workers.[36]

In China, factory wages in export industries are largely determined by the legal minimum monthly wage. The minimum wages are set by local governments, even down to the level of city districts, and are set in accordance with the local cost of living and the prevailing local wage. Variations throughout the country are related to geography and not to industry or skill level.

TABLE 6.3 Minimum wages in RMB in Chinese cities and rural towns where field research was conducted, USD in parentheses

	GUANGDONG PROVINCE		JIANGSU PROVINCE			JIANGXI PROVINCE	SHANGHAI MUNICIPALITY
	Dongguan	Zhaoqing	Nanjing (rural)	Nantong	Shuyang and Jiangyan	Xingzi	Shanghai
2008	770	580	850	850	590	450	960
	(113)	(85)	(125)	(125)	(87)	(66)	(141)
2009	770	580	850	850	590	450	960
	(113)	(85)	(125)	(125)	(87)	(65)	(141)
2010	920	710	960	960	670	550	1120
	(135)	(104)	(141)	(141)	(99)	(81)	(165)

The great majority of the blue-collar workforce in the export sector are migrant workers from the countryside, and factory managers have become accustomed to using the local legal minimum wage as the benchmark as to how much to pay them for the first forty hours of work each week, the so-called basic wage. Violations of the labor law do not normally occur in the form of paying below the legal minimum wage, but violations are fairly common when it comes to forcing workers to labor for more than the legal maximum number of hours each week and paying less for the overtime work than is legally stipulated.[37] Conditions have improved in recent years. Although new workers normally are paid approximately the legal minimum wage for nonovertime work, experienced workers earn more than this. To retain labor, workers also get the minimum wage during the slack season. But most of the stitchers in our sample of Guangdong soccer ball workers labor more than sixty hours a week, and some more than seventy-five hours a week. Their monthly wage ranges from RMB1,300–1,800 ($191–264), which is quite a bit higher than the minimum wage, but they only earned this much by working many underpaid hours of overtime. This was even true for workers at the Adidas supplier factory in Shenzhen who made the match balls called Jabulani for the 2010 World Cup. They worked twelve hours a day, making a monthly wage of RMB 1,700–1,800 ($250–264), which is less than the cost of two Jabulani balls.[38]

In China, factory-labor regimes, especially in large Taiwanese-owned operations, tend to be harsh and disciplinarian, and the employment relationship is very tense. Workers sporadically lodge complaints with the local authorities or initiate work stoppages or even strikes. Going further, in June 2010 more than one thousand workers in a soccer ball factory in Jiangxi engaged in a conflict with the management and destroyed part of the administrative office to protest their treatment.[39] In the factory mode of production, workers' labor-rights consciousness is inevitably higher than among home workers working in isolation.

In short, Chinese factory stitchers today do not by any means enjoy decent work conditions nor decent wages as defined by ILO standards. But because of labor shortages in Chinese factories, which first became evident in 2004, wages have gone up. Employers have reacted to increases in local legal minimum wages and rising labor costs, however, by relocating to regions of China where wages are lower. Top Ball, for instance, has relocated much of its production to Jiangxi. Even so, Chinese stitchers in the new locales are paid considerably more than stitchers in Sialkot and Jalandhar. Because productivity in the factory mode of production using machines is much higher than in homes and in stitching centers, manufacturers still find it profitable to remain in China. But because capital's aim is to maximize profits, some suppliers have resorted to keeping labor costs down in China by reaching out to a different and even cheaper type of worker—prisoners.

Similarly, child labor in Pakistan and India was a consequence of paying adult workers less than a living wage. As will be observed, in India and Pakistan, where real wages have been driven down in the past decade, full-time adult labor today sometimes is not enough to sustain a family, and hence child labor is needed to supplement inadequate family income. In both cases, a race to the bottom is evident, in the form of child and prison labor.

CSR, Child Labor, and Prison Labor

Multinational buyers, as discussed in the beginning of the chapter, have all drawn up codes of conduct for their suppliers to ensure that their products are produced under decent working conditions. Our empirical findings show, however, that the vast amount of social monitoring and auditing has not only failed to arrest the problem but has allowed it to worsen. In Pakistan, the movement to eliminate child labor has avoided the core labor issues and even degraded labor standards. In China, we have discovered the use of prison labor. Both cases demonstrate the failure of global governance by CSR monitoring systems.

Child labor in poor countries is closely related to home-work production in which workers are paid so little that they can barely make a living. An investigation done by an Indian NGO in 2008 revealed a close correlation between poverty and child labor at a smaller soccer ball production site in India called Meerut.[40] The data showed that all the children who helped stitch and did not go to school were from the poorest of households. Families that barely needed to rely on stitching were better off, and none of their children engaged in any stitching. The case of Meerut disclosed a serious problem in the hand-stitched soccer ball industry where, if stitching was the only source of income, the family was among the poorest. The report also reflects the relationship between production-chain pay rates, adult home stitchers' piece-rate incomes, and child labor. Child labor is a function of adult labor income. Had adult stitchers been paid enough to sustain the family, there would have been no child labor.

Thus, the most effective solution to the child labor scandal in the mid-1990s in soccer ball production was for the brand-name corporations to raise the wages of the adults engaged in home stitching. One method would have been to give the subcontractors a higher price to pass on to home stitchers. If subcontractors cannot be trusted to do this, then a monitoring system could be established to ensure decent piece rates are being paid.

The stakeholders who signed the Atlantic Agreement to eliminate child labor in soccer ball production did not raise wages. Instead, home stitchers were to go to so-called stitching centers set up by the manufacturers.[41] This gave rise to a

new form of labor organization under which a sizeable number of balls came to be made. The rationale for creating these centers was that they facilitate monitoring of child labor; yet adults working at the centers barely see any increase in income compared with when they worked at home. Neither monitors nor ILO field team members were instructed to provide the stitchers with information on the ILO core conventions or on workers' labor rights.[42] In short, by ignoring the low level of the adult workers' piece-rate payments and keeping workers ignorant of their labor rights, the Atlantic Agreement, though launched with much fanfare, was not intended to seriously tackle the root problem underpinning child labor. The unsaid purpose was to eliminate the symptoms but not the cause of child labor. Most of the brand-name multinational corporations adopted the stitching center and monitoring option.

In 2009 and 2010, we found home stitching still quite prevalent. Monitors' only concern when they do their rounds of inspections at the home-workers' houses was whether there were children stitching. As long as no children were visibly engaged in stitching, the home visit was checked off as unproblematic. The condition of the adult stitchers falls through the cracks. In this sense, we argue that the issue of child labor has actually diverted the world's attention away from the exploitation of adult stitchers. One can even argue that monitoring has only reduced the amount of child labor in the industry while actually increasing the serious exploitation of adult home workers. The evidence, as pointed out earlier in the chapter, is clear—the wages of home workers have not gone up for some ten to twenty years despite inflation.

In reference to eliminating child labor, the center-based model could be regarded as a success because 95 percent of all soccer ball exports in Sialkot were child labor-free according to a report published by the Independent Monitoring Association for Child Labour in 2003.[43] In our interviews with stitchers during 2008–9 in Sialkot, however, we found that the reason for the decline in child labor was not necessarily the establishment of stitching centers or of effective monitoring but, rather, because of the abysmally low wage. The wage in 2009 for adult stitchers was much lower than in the 1990s. If adult wages were low, they were even lower for children. In 1997, a child stitcher could earn roughly half the minimum wage.[44] But today, an adult full-time home stitcher also earns only half the minimum wage. In other words, the wages of children stitchers contribute such an insignificant amount to family income that parents do not see a future for their children in a declining industry of soccer ball stitching.

Nike's solution of eliminating home workers by establishing large-scale and well-equipped stitching centers did not work either. In 2006 it was discovered that

Saga Sports, Nike's supplier in Sialkot, employed 5,257 piece-rate center-based workers out of a workforce of 7,637 and that 84 percent of all workers stitching for Saga Sports were paid less than the monthly legal minimum wage.[45] Moreover, Saga Sports subcontracted production to home workers. When Nike discovered home workers were being used, it cancelled production orders to Saga Sports and shifted to sourcing from China, causing sudden large-scale unemployment in Sialkot.

In China, child labor is not a problem in the soccer ball industry. Chinese workers are paid a comparatively high enough wage so that they do not have to put their children to work. How, then, do suppliers in China compete in the hand-stitched soccer ball market with Sialkot and Jalandhar, and how do they keep labor costs low for machine-stitched balls? This leads us into the realm of prison labor—a form of labor that is considered by the international community as forced and is a violation of human rights. It is well known that China has established factories inside prisons. (So far as we know, however, ours is the first study to mention prison labor in the soccer ball industry.) Prison labor in China is openly and widely discussed in Chinese criminology and public security journals. Western media regularly reports on discovery of consumer products made in Chinese factory prisons.[46] Since the mid-1980s many Chinese prisons have been instructed to be self-financing, which effectively means that prisoners are often production workers.[47] The US government in particular has been extremely critical of this and has forbidden the importing of Chinese prison-made products. In response, the Chinese government signed a memorandum of understanding with the US government agreeing to prohibit the export of products made by prison labor.[48] Prison-made goods from China remain a politically sensitive issue and are monitored by US human rights groups and trade unions.[49] But still there can be leakage from ordinary factories to prison factories through the subcontracting system. For instance, a lawsuit was filed in a US court in 2000 against the Chinese government for exporting Adidas soccer balls. The case was rejected on the grounds that the balls were fake Adidas balls.[50] Regardless of whether they were real or fake, these prison-made balls had been exported to the United States.

While conducting field research in several rural counties in northern Jiangsu and Jiangxi Provinces, we discovered through chance encounters and sightings that prison labor was involved in the production of soccer balls for export. The information came from a variety of sources: one of us saw a truck with the word "Police" and the name of a prison on it and people loading soccer ball panels into at a sporting goods factory; five factory owners who were suppliers told us they could provide balls at lower prices through prison labor; and information also came from a subcontractor for factories, a human resources manager of a sizeable factory, two cab drivers who said they had delivered soccer ball materials

to prisons, some former home-based stitchers in a "soccer village" who complained that the competition from prison labor was too fierce, and also the Internet, where some prison factories advertise that they take orders.[51]

The informants were very open about the use of prison labor. They were totally unguarded because to them prison labor is entirely normal. They were unaware that prison labor is equated with forced labor and that using it for commercial production is considered a violation of human rights.[52] Thus, for instance, when we chanced upon a ramshackle warehouse where we found piles of soccer ball panels with different labels on them, the owner, who was a subcontractor, thinking we were customers, eagerly told us that if we wanted a rush order, he could get an order of hand-stitched balls delivered within a couple of days from a prison. In another instance, a manager told us that many firms preferred to outsource orders to prisons rather than to home workers because the former could take large volumes and were more reliable in delivering on time. He observed that lower production costs are one reason for using prison labor, but it was not the main one. A manager of a sporting goods factory in Jiangsu Province told us that in recent years the price per unit of hand-stitched balls produced in prisons had risen from RMB4.0 to RMB6.0, which was close to, and even a little higher than, the payment to home workers.[53] He still prefers prison-based manufacturing because of its higher productivity. In recent years, suppliers noted that they have expanded the use of prison labor from making hand-stitched balls to making machine-stitched ones.[54]

"Re-education through labor" camps (*laodong jiaoyang* or *laojiao*) are used as a so-called method of rehabilitation for delinquents and lesser criminals. Government authorities justify the practice of turning these camps as well as ordinary prisons into factories on the grounds that inmates learn through this to engage in methodical labor when discharged.[55] One of the skills listed is stitching balls.[56] The most important reason to turn prisons into factories, though, is the profit-making function of prison labor.

Because of the difficulty of gaining access, we could not get firsthand information about working conditions in these prison factories. Chinese researchers in law and criminology who study prison systems have found that the production system in prisons is very much like that of normal factories, with supervisors, line managers, and an incentive system with awards and penalties.[57] Several soccer ball factory managers who do business with prisons told us that they send members of their staff to train prison workers and to monitor quality control and that the shop floor was no different from ordinary factories.[58] They added that prison workers are much easier to manage. The prisoners' wages are miniscule, and most of the income from stitching goes directly to the prison authorities. Prison workers are excluded from labor law protection regarding compensation and length of work hours[59]; prisoners are given paper "bonuses" based on their

work performance each month rather than legal wages.[60] The amount varies from prison to prison. For instance, in 2003 prisoners could make RMB10–400 ($1.50–$58.80) a month in Fujian Province.[61] In 2007, prisoners could get RMB60–200 ($8.80–$29.40) per month when business was good in a prison factory in Anhui Province.[62] In one study of workers in a re-education camp, the work hours for working seven days a week was 76.5 hours,[63] which is equivalent to working 11 hours a day, seven days a week. This is longer than the hours in normal soccer ball factories, where workers have 11-hour days but normally have one day of rest each week (i.e., about 65–66 hours of work per week). This extra prison overtime work is what makes prison manufacturing into a "high production" site compared to the factory or home mode of production.

Nevertheless, this 75-hour work week in a prison factory is no longer than is sometimes found in labor-intensive factories in Guangdong Province.[64] We interviewed two stitchers in a Guangdong factory who had even worked up to 84 hours a week. Thus, the most noticeable difference does not lie so much in terms of the length of work hours but in compensation and labor intensity. In prisons, the labor regime is extremely disciplinarian and regimented. And, as seen, prison labor is paid very little. It should, however, be borne in mind that thus far prison-made soccer balls constitute only a small percentage of exported hand-stitched soccer balls from China and an extremely small percentage of the machine-stitched balls. The world's hand-stitched ball production is still dominated by Sialkot and Jalandhar.

Pauperizing Workers

About a decade ago, Neil Kearney, president of the International Textile, Garment and Leather Workers' Federation (ITGLWF), commented on the state of his global trade union federation. Crisscrossing the globe many times a year, trouble-shooting, helping unions whose workers who were on strike, initiating training programs, bargaining with recalcitrant employers' associations, and linking unions representing a workforce of several millions spread over 110 countries, Kearney had a bird's-eye view of the plight of union members. When negotiating with corporations and governments in countries where workers were paid rock-bottom wages, he warned them that their race to the bottom strategy was not conducive to the country's economic development.[65] That was at a time when several academics and extensive press coverage were exposing the terrible conditions of Chinese migrant workers. China's low wages in the late twentieth and early twenty-first centuries were driving down wages in other developing countries.[66] These low wages, so attractive to foreign capital, seemed at the time to be a factor propelling China's economic development. The situation in

China did not square with Kearney's prediction. Wages have been rising in China since the mid-2000s. Yet, our research project on the world's soccer ball industry suggests that Kearney was right. A low-wage policy that pauperizes a country's workers, where wages are so low that China's wages appear "high" in comparison, retards not only the workforce physically but also the country's ability to develop.

The essential focus of China's overall economic development strategy of the past two decades has been to encourage economies of scale, production efficiency, technological upgrading, mechanization, automation, and division of labor in production. It is the very opposite of South Asia's de facto strategy in many industries, including soccer ball production, of atomization of production into minute units and engaging in a race to the bottom in wages in the belief that racing to the bottom will enable local manufacturers to compete internationally.[67] This strategy has, in fact, been counterproductive, and both Sialkot and Jalandhar have been losing market share to China. What the "race to the bottom" cheap-labor strategy does not take fully into account is that cheap labor is not the only consideration. After all, cheap labor is offered by many developing countries. A difference of a few US cents an hour does not make that much of a difference to the overall production cost. Other factors such as the quality of labor, logistics, an efficient supply chain, access to high-grade raw materials, governance, the social and legal environment, R & D capacity, and productivity, when factored into the costing, easily outweigh the relatively small difference in labor costs. Table 6.4, using South Korean labor costs as a standard, shows that labor costs in China were still, by comparison with Korea, on the low end as of 2008, albeit 1.56 times higher than India; but when China's skill base, R & D capacity, infrastructure, and government capacity are factored in, producing in China is advantageous overall. Manufacturers can easily absorb the higher labor costs.

TABLE 6.4 Labor costs and industrial capability in China, India, and Pakistan, 2008

COUNTRIES	LABOR COST (SOUTH KOREA = 100)	INDUSTRIAL CAPABILITY (SCORE VALUE: 0.000–1.000)				
		Skill base	R & D	Infrastructure	Government	All indicators
China	29.2	0.269	0.031	0.232	0.263	0.223
India	18.7	0.121	0.003	0.075	0.192	0.096
Pakistan	N/A–	N/A	N/A	0.083	N/A	N/A

Source: http://www.global-production.com/scoreboard/countries/index.htm

As the data show clearly, the strategy of offering cheaper labor does not, in itself, constitute a solution. It simply ultimately further impoverishes workers. Twenty years ago, soccer ball hand stitchers in Sialkot and Jalandhar could make a living out of the trade. But today, they are at the bottom of the heap in their own countries, making barely enough to survive, and those who can find no other work but to stitch balls for a living have difficulty sending their children to school.

The outcry from the international antisweatshop movement has been loud and clear that the lead firms in global supply chains are the main drivers to the bottom. In this chapter we have shown that their CSR initiatives are ineffectual in raising labor standards. Had they been seriously concerned with the well-being of the Sialkot and Jalandhar soccer ball stitchers, they would have instituted a program of bringing stitching center workers and home workers into factories where they would have a chance to earn the legal minimum wage without working excessive overtime and where they would have collective bargaining rights. Nike tried, but the Saga Sport incident showed that wages were still too low and the monitoring of the factory was lax. The stitching center solution, purported to eliminate child labor, diverted criticism but did not stop the paying of a very low wage for adult labor.

Our research has shown that the state has to bear much of the responsibility. The laws established by the state and the state's enforcement of such laws set the preconditions for the production chains that exerted downward pressure on labor standards. Explicitly or implicitly, all three states, including China, collude with capital. This is evident in state laws and policies, such as those found in Pakistan and India that fragment labor into self-employed home workers, depriving these workers of the possibility of taking collective action to improve their lot, stunting living standards and development. This might bring in some foreign investment and help generate some employment initially, but in the long run such a "nondevelopment" strategy becomes counterproductive and does not even preserve jobs, as can be seen in Sialkot's and Jalandhar's rapid loss of market share to China. Human resources remain stagnant and even degenerate in this "race to the bottom" strategy. Modernization and technological upgrading has bypassed both countries' soccer ball industries. When liabilities such as poor infrastructure and industrial skills and political instability cancel out the advantage of cheap labor, then, no matter how cheap labor gets, capital will shy away. The loss of the market shares of Sialkot and Jalandhar soccer balls exemplifies the failure of the state's low-wage policy.

In the soccer ball industry China seems the mirror image of Pakistan and India. China is a developmental state with strategic development plans. Only when it is measured against Pakistan and India do we come to realize that

Chinese labor is actually not that cheap. To compensate for more expensive labor, China invests heavily in infrastructure and encourages entrepreneurship and technological upgrading. In a matter of a few years it has monopolized the world's machine-stitched soccer ball market while Pakistan and India are still trying out machine production.

At the same time, before giving up totally on the hand-stitched soccer ball market, Chinese suppliers have tried to continue to use cheap home labor. When home workers abandoned stitching for other employment opportunities that paid more, suppliers turned to prison labor in the hope of maintaining a share in that market. Prison labor in China helped counterbalance the cheap hand-stitched labor in Sialkot and Jalandhar. Productivity in prisons is high, and wages are very low. On a wider scale, this also undercuts the wages of free labor. Child labor and prison labor are consequences of the race to the bottom.

Part III

TRADE UNIONS, COLLECTIVE BARGAINING, AND THE RIGHT TO STRIKE

7

LABOR NGOs UNDER STATE CORPORATISM

Comparing China since the 1990s with Taiwan in the 1980s

Chris King-chi Chan and Yu-bin Chiu

Under authoritarian and state corporatist regimes, prohibition of freedom of association and collective action leads to a different trajectory of labor resistance from that found in the West. Trade unions under state corporatism often pay little attention to workers' grievances at the grassroots level. When workers have difficulty organizing themselves, labor nongovernmental organizations (LNGOs) emerge to fill the void. This chapter compares the development of LNGOs in China since the 1990s and Taiwan during its transition to democracy in the 1980s to early 1990s. In both cases, corporatist regimes delineated the function of trade unions and the relationship between the working class and party-state. In both cases, the state's main concern was to ensure stable industrial relations for economic development. Our aim in this comparative study is to show the role and limitations of NGOs during periods of burgeoning labor activity as well as to assess what implications the Taiwanese experience may have for China.

Industrial Relations under State Corporatism

Despite the sharp contrast between economic systems across the Taiwan Strait, "Communist" China today and capitalist Taiwan three decades ago shared

state-corporatist characteristics and thus quite similar state-labor relations. State corporatism here refers to the state's monopolization of the representation of social groups (e.g., labor and capital), in contrast with societal corporatism, which prevails under Scandinavian social democracy, for example, where state–civil society relations developed in a more bottom-up manner.[1] There are two theoretical dimensions of corporatism: the first refers to "corporatism as interest intermediation"—that is, a particular relationship between the state and interest groups to prevent social groups from challenging the state; the second dimension refers to "corporatism as policymaking"—that is, a distinctive mode of policy formation such as establishing a centralized tripartite industrial relations system.[2]

Both the Chinese Communist Party (CCP) and Taiwan's Kuomintang (Nationalist Party, KMT) adopted the first dimension while sidelining the second, hence the absence of a tripartite mechanism. State corporatism in Taiwan and China is aimed at ensuring stable industrial relations by co-opting or controlling workers' organizations, rather than serving the interests of grassroots workers. As Unger and Chan put it, "harmony is the catchword of a corporatist system, regardless of whether this harmony is truly consensual or imposed from above. It is very often a *goal*-oriented harmony, orchestrated to serve a national mission,"[3] and hence the usually long periods of labor quiescence under such regimes. It is from such a controlled environment that labor resistance finally began to emerge in Taiwan in the 1980s and China in the 1990s.

It should be noted that the extent of control over civil society under the CCP and the KMT during these decades were not identical but rather two variants of authoritarian-state corporatism. In China, the party-state commanded both the economy and society, with very little space for civil society or organized political opposition before the 1980s. Political activism is still constrained, although nonpolitical NGOs are allowed to exist under state surveillance. In Taiwan, the capitalist system allowed more space for private and civil activities to maneuver, and as a consequence society was never as deeply penetrated by the state as in the Chinese "socialist" regime. Even before the end of martial law in 1987, political opposition in Taiwan could exist, albeit with difficulty. The contrast between these two types of authoritarianism engendered differences in their respective industrial relations systems. Here, we will briefly review each country's industrial relations system, including the role of official unions and labor regulations.

China

Since its founding in 1949, the People's Republic of China (PRC) has adopted a corporatist structure to mediate industrial relations. On the side of capital, the All-China Federation of Industry and Commerce was set up in 1953 under the leadership of the CCP to organize non-state-sector entrepreneurs and simultaneously to represent their interests. This organization ceased to exist when all capitalist enterprises were nationalized in the mid-1950s,[4] only to be revived in the early 1980s. The rule of the Chinese party-state, however, bears little resemblance to democratic multiparty systems.[5]

On the side of labor, the All-China Federation of Trade Unions (ACFTU) has always had the monopoly on "representing" workers. During China's transition from state socialism to a neoliberal socialist market economy, the ACFTU has had a double institutional identity: as a state instrument under CCP leadership and as a labor organization nominally representing the interests of workers.[6] The Trade Union Law, which was revised in 2001, added an item under article 4 that the ACFTU "shall take economic construction as the center, adhere to the socialist road, uphold the people's democratic dictatorship, abide by the leadership of the Chinese Communist Party, adhere to Marxist-Leninism Mao Zedong Thought and Deng Xiaoping Theory, persevere in reform and opening," and at the same time it emphasizes in article 6 that, "while protecting the overall interests of the entire Chinese people, trade unions shall safeguard the legitimate rights and interests of the workers and staff members."[7] Workers' interests are subsumed under the interests of the state. The establishment of a legal trade union in the workplace is possible only with the permission of the higher-level trade union. Workers are not allowed to build up any unions that are independent of the ACFTU and the CCP. In the early 1990s, there were a few instances when workers undertook to do just that but were suppressed.[8]

Notably, ACFTU's leaders are all CCP members. The chairperson of the ACFTU is simultaneously a member of the standing committee of the CCP,[9] while the chairperson of the ACFTU's provincial branch has to report to, and is appointed by, the provincial party committee, an arrangement that continues down the hierarchy. Among other things, this structure weakens the power of the ACFTU as a bureaucracy because at each level the union is under the leadership of the local party committee. Industrial unions do exist in name, but there are almost no vertical linkages between the various levels, as their hierarchical relationship is cut off by the party-state's horizontal control at the same level. The chairpersons of trade unions are also often local officials, former senior managers in state-owned enterprises, or management in private or foreign enterprises.[10] Further, in the first decade of the twenty-first century, provincial trade union federation heads increasingly held the position of vice-chairperson in the People's Congress or

Political Consultation Conference or were members of the CCP standing committee at the provincial level.[11] This elevation in status reflects the party-state's hopes that the trade unions can regulate labor relations and pacify unrest.[12] The incorporation of trade union chairpersons into the local party-state leadership has strengthened the former's institutional ability to pressure both management and workers to reach agreement during labor conflicts.[13]

Many workers are cynical and dismissive about the ACFTU because of its close ties with management and the government. Workers regard the national union as always siding with management and the government during labor disputes and hence as unhelpful.[14] At Uniden, a Japanese electronics factory in Shenzhen, for instance, thousands of workers staged a series of strikes in 2004, demanding the establishment of a democratically elected workplace union.[15] The police arrived, undoubtedly sent in by the local government to suppress the strike. After the strike, a trade union election did take place, but it was manipulated by management, and the movement quickly fizzled out.

Given Chinese trade unions' failure to protect workers' rights, many LNGOs have emerged since the 1990s to fill the void. Inspired by similar events in the former USSR and Eastern bloc states, many scholars were hopeful that, after 1989, social organizations would emerge in China and have the potential to develop into Western-style civil society and erode Communist rule.[16] Others were skeptical, arguing that the new "neo-authoritarian corporatism" only strengthened the party-state's capacity to control civil society.[17] Developments in the past two decades suggest that full-scale civil society has definitely not emerged, though the space for such actors to negotiate has widened to some extent.[18]

Taiwan

Let us now see how corporatist arrangements under KMT rule shared some characteristics with those of the PRC. After its flight to Taiwan in 1949, the KMT government launched a series of campaigns geared at establishing a corporatist structure.[19] The state-corporatist project was reflected in the three guidelines on labor relations issued by the KMT's central-reform committee in the early 1950s:

- to establish labor unions among industrial workers and to found a party caucus parallel to the unions in order to keep the unions under the party's leadership;
- to stimulate patriotism among workers to prevent Communist infiltration; and
- to recruit active workers as party members and to ensure they were elected as union leaders.[20]

In other words, the KMT, like the CCP, wanted to have absolute party control

over labor.

As with the CCP and the ACFTU, the KMT too monopolized control at each level of the union hierarchy. The Labor Union Law enacted in 1927 (under the KMT government in mainland China) was amended shortly before the KMT arrived in Taiwan. There were to be two parallel union structures: the "industrial" union (*chanye gonghui*) and the "occupational" unions (*zhiye gonghui*).[21] But the "industrial union" in reality was not allowed to form industry-wide unions. Such unions were organized within companies or factories. Because workers were not allowed to organize by industry, factory-based unions came to dominate labor and would eventually challenge the KMT regime and its industrial relations system in the mid-1980s.

Trade unions in the Taiwanese regime were used as a means of social control to ensure industrial and political stability. The KMT launched the first wave of unionization in the late 1950s, during which most of the state-owned enterprises were organized under the party's instructions. In the second wave in the late 1960s and early 1970s, many large private enterprises and some new state enterprises were unionized. To perpetuate the KMT's omnipresence, it established party branches in the main industries and party caucuses within the main trade union. The penetration of the KMT in Taiwan's society horizontally and vertically was very similar to that of the CCP in China.

In Taiwan, the single-union principle was introduced; that is, only one union was allowed per company or factory or occupation. All unions were asked to join the county or city federations of labor unions affiliated with the only legal national federation, the China Federation of Labor (CFL) that had been set up by the KMT regime in mainland China in 1947. As with their mainland Chinese counterparts, Taiwanese union officials were closely linked to or directly selected from the ranks of party cadres.

Labor relations in Taiwan remained generally stable for a few decades under this system. Most labor disputes, which happened mainly in the private sector, were resolved after bureaucratic interventions, sometimes with the involvement of party cadres, union officials, and local politicians. The right to strike had been removed under martial law (1949–87), so the strike rate remained low. Only a small number of collective agreements existed in state enterprises, and they were upheld as models of good industrial relations, or "labor-capital harmony" (*laozi hexie*). The KMT regime did not encounter any significant labor resistance until the 1980s, when its rule was gradually challenged.

Let us now turn to how LNGOs emerged and functioned under these quite similar political systems, both during economic and, in the case of Taiwan, political transition.

Chinese Labor NGOs since the 1990s

As China became more closely integrated into the global economy in the 1990s, the Pearl River Delta (PRD) region in Guangdong Province became the country's most densely concentrated export-processing zone. The majority of the factories there were and are suppliers producing for the markets of the developed countries. By 2008 there were about eighty million migrant workers in the PRD laboring in sweatshop conditions with excessive overtime work, low wages, wage arrears, and high injury rates.[22] Over 20 percent of all labor disputes in China were in Guangdong Province, the majority of these in the PRD. The number of cases handled by labor-dispute mediation committees of one single city in the PRD, Shenzhen, was one-tenth of the national figure.[23]

Meanwhile, local governments and the ACFTU neither enforced labor laws nor protected workers' rights.[24] One survey in 2008 showed that only 1.9 percent of injured workers received support from the trade unions, and only 4.5 percent of them received support from the government.[25] Although the ACFTU has been promoting the organization of trade unions in foreign-invested enterprises since the early 1990s, many of these new unions were set up jointly with management to meet quotas issued by the higher-level trade unions or local governments or to satisfy corporate social responsibility (CSR) audits.[26]

The concept of an NGO did not exist in Maoist China and barely did so even in the 1980s. Hong Kong, just across the border from the PRD, however, had quite a vibrant civil society. When Hong Kong's capitalists began to massively relocate their industries to the PRD after 1992, the former's LNGOs started to pay attention to the situation of migrant workers across the border. Since then Hong Kong's LNGOs have fought to improve workers' lives in the PRD through investigations, disseminating reports, and collaborating with international NGOs, trade unions, and consumer movements. One of the best-known cases was the Zhili Toy Factory fire in Shenzhen in 1993, which resulted in the deaths of eighty-seven workers. Hong Kong labor groups played a key role in publicizing the disaster and, together with Western trade unions and consumer groups, pressured the Italian company Chicco to provide compensation to the victims and their families. Since then, labor groups such as the newly formed Chinese Working Women Network and the long-established Hong Kong Christian Industrial Committee have become active in the region. More and more LNGOs were set up in the PRD with the help of these Hong Kong groups; today, while some LNGOs in the PRD continue to be directly run by Hong Kong activists, most of them are run by local people.

Following the crushing of the prodemocracy movement in 1989, the Chinese government tightened laws relating to the management and registration of civil

society organizations.[27] Since then, NGOs in China have been required to be affiliated with a "supervisory unit," which can be granted only by a government agency or its authorized organization. This allows the state to monitor all registered social organizations. In any case, it is difficult for an NGO run by a few individuals to register in order to find a supervisory unit. Many NGOs are wary of being attached to any government-related bodies and have developed survival strategies. One way is to collaborate with organizations that have a lawful status such as a local trade union, a Communist Youth League branch, or an academic institution. This allows the NGO to carry out labor-related projects under its affiliate's name, while remaining largely independent in terms of actual operations. The second method, which is very common, is for an NGO to register as a commercial organization, such as a self-employed entity, an independent enterprise, or a limited company. The third choice is not to register at all and keep a low profile.[28]

The first option is the most attractive, but finding a partner is not easy. When faced with external pressure, the academic or quasi-governmental organizations are likely to withdraw from the collaboration. In the second alternative, the person who registers the organization as a business faces the most pressure. Local authorities often visit NGO centers and directly or indirectly apply pressure on the staff. The government's main concerns are an organization's actual activities and source of overseas funding. If an NGO's activities are found to be overstepping political boundaries it can be deregistered on the grounds that its activities are inconsistent with its registered purpose. This kind of harassment has increased since 2005. LNGOs continue, however, to exist one way or another. It is widely believed that the government does not want to force them underground, in which case they would be even harder to regulate: a banned NGO may pop up again in another area registered under a different name. On the whole, though, their existence is still precarious; but they have also become more adept at playing cat and mouse with the authorities.

Despite their varied histories, LNGOs in the PRD share many common characteristics. Most of them are supported by foundations in Hong Kong or abroad and are managed by progressive intellectuals and activists. They generally fall into two categories based on the work they do: community intervention or enterprise intervention.

The community-based LNGOs run workers' services centers, organize outreach activities, conduct social surveys, and get involved in policy advocacy. The workers' centers are usually located in migrant workers' communities and have a free library stocked with newspapers, magazines, videos, and a television. These centers also offer special-interest classes, educational classes, and recreational and cultural activities. Migrant workers can chose to join various interest

groups—such as gender, labor rights, injured workers, literature/art, and outreach/advocacy—all intended to raise their class awareness and collective identity.

Although these centers vary in their services and activities, legal consultation is always an important component. This includes educating workers on the Labor Law and other labor protection regulations, running free legal hotlines, drafting legal documents, taking up litigation cases and so on—but generally only in individual labor disputes. Despite the intensifying workers' struggles and more frequent collective protests, most LNGOs in China shy away from cases involving collective action to avoid provoking the displeasure of local authorities.

The following case illustrates the serious consequences for organizations that overstep this unspecified boundary. The case involved one of the most progressive and active LNGOs in the PRD, Dagongzhe. Subsequent to the announcement of the Labor Contract Law in 2007, many companies began firing workers to avoid signing permanent contracts with them. Dagongzhe had been actively helping these workers sue their employers to recover unpaid entitlements and overtime premiums. Taken together, these amounted to huge sums, putting enormous financial pressure on the companies involved and the local government. Before long, thugs forced themselves into the Dagongzhe workers' center, ransacked the office a couple of times, and then violently attacked and seriously injured one of its staff members. Later, it was confirmed that the perpetrators were gangsters hired by local businessmen.

The incident aroused tremendous local and international concern. In the face of the huge support from the domestic and international media, the Shenzhen Federation of Trade Unions visited the victim in the hospital. This was an unprecedented goodwill gesture. The union, however, did not help him acquire work injury status or provide him with legal aid. A few months later, the landlord evicted Dagongzhe from its premises, probably under pressure from the local government. The organization had to move to another industrial area. The entire episode was probably the most intense interaction between the local trade union and an LNGO, a relationship that is extremely delicate and easily strained.

Some LNGOs run outreach programs. As participant-observers we accompanied an LNGO as they distributed copies of educational material in factory districts, which sometimes drew crowds of up to a hundred workers. In districts with hostile local authorities, they had to resort to "guerrilla" tactics, such as visiting workers convalescing in the special "industrial injuries wards" in hospitals that are set up for the large number of workers who are hurt in industrial accidents in the PRD. This is a very common LNGO outreach program that is seen as nonpolitical and "safe." At each visit an LNGO staff person can contact up to twenty workers and advise and help them file for compensation. The LNGOs

also hold monthly meetings for those discharged from hospitals while waiting for their cases to be processed. A sizeable number of workers have had contact with these LNGOs cumulatively through the years.

Some LNGOs have also been involved in policy advocacy, which requires collecting data by conducting social surveys. To maximize the impact of the survey findings, sometimes these are done in collaboration with pro-labor scholars. The national government passed a few important labor laws such as the Labor Contract Law and the Labor Dispute Mediation and Arbitration Law, which were effective in 2008, and the Social Insurance Law in 2011. At each stage of the drafting of these bills when public discussion was allowed, LNGOs presented opinions drawn from their survey findings. They have thus made some inroads into being recognized as "legitimate" as the local media have reported on some of their findings.

It should be noted that all the above LNGO activities take place outside the workplace. Another approach called "enterprise intervention" is to access workers by trying to get inside the workplace. This means asking for management invitation. Once inside, however, LNGOs discover the many restrictions imposed by management; after a decade, little progress has been made in furthering labor rights in this way. Some LNGOs have abandoned this idea, but others continue using this channel.

Multinationals, with their leverage over suppliers, came under highly publicized attack by the international antisweatshop movement in the early years of the twenty-first century. Keen to enhance the credibility of their codes of conduct, the multinationals ordered some of their suppliers to let LNGOs into their factories to carry out social audits. The main problem with social auditing, however, is that management manipulation can lead to serious fraud: workers are often trained to give the "correct" answers before the audit. While it is relatively easy for staff of the LNGOs to uncover code-of-conduct violations, during such short encounters in the factories it is still very difficult for an auditor to gain the trust of workers, who rarely dare to raise any complaint openly.

The shortcomings of social audits have given rise to another type of intervention—in-factory training for workers and even management staff to raise labor rights awareness. After the training sessions, management might allow an LNGO to set up a grievance hotline or even promote the establishment of a trade union or worker-representation mechanism. Our participation in such programs, however, led to the realization that we had wasted half a year or even more negotiating details with the factories, brand companies, and multistakeholders' initiatives (MSIs) without any results. Not many LNGOs want to participate in factory-training programs; they have learned the lesson

that capital is not really interested in raising workers' awareness. LNGOs that continue to work with companies have their own reasons for doing so.

Aside from the ineffectualness of such factory-based training, sustainability is another major concern. In a pilot project initiated in 2000, Reebok practically compelled two of its supplier factories to hold democratic trade union elections and then invited Hong Kong LNGOs to provide in-house training for the newly elected unions to set up a workplace union structure and collective bargaining.[29] In one case, however, the economic zone ACFTU branch refused to let the Hong Kong trainers inside the plant, while in another case the project was terminated by new factory management when it took over in 2002. The elected trade union committees in both cases quickly dissipated in a couple of years, unable to withstand manipulation by management and local authorities: elected union committee members were either forced out or quickly replaced by management-approved workers.[30] Reebok itself terminated the program. During fieldwork in 2007, we encountered a strike by workers in the latter factory when workers came to seek help from an LNGO and complained that their trade union was "promanagement."

Because such capital-initiated workplace programs were resisted by the ACFTU and yielded no results, the LNGOs changed their tactics. When they had a chance to be invited to conduct training programs inside factories, some started to facilitate setting up workers' committees, welfare committees, or occupational health-and-safety committees rather than trade unions. These efforts have also ended in failure because of a lack of external support and local government's suspicion of LNGOs. At one fieldwork site, members of the workers' committee were summoned by the residential community's party officials and warned not to carry out their plan to approach visitors from the brand-name company to ask for a wage rise. The workers' committee had two core members who were most vocal about labor rights. Following their meeting with the party officials, one of them was forced to quit while the other was promoted and has since remained silent.

As can be seen time and time again, the ACFTU has shown little interest in safeguarding workers' interests. This has created a void that LNGOs have partly filled. Continuous monitoring of their activities by local governments and even pressure from local trade unions, however, have placed great constraints on the LNGOs. The latter have developed various tactics for continuing their work to heighten workers' rights awareness and publicizing unjust working conditions, but they operate in a grey area of legitimacy; raising the banner of workers' collective resistance and collective organization remains politically taboo.

Taiwan's Labor NGOs during Democratic Transition: 1985–95

Before the 1980s there were no LNGOs in Taiwan under the oppressive KMT. They began to emerge only in the 1980s as a new political environment opened up social space. In the 1970s, the KMT's rule was continuously challenged by political opponents under the "*dangwai*" ("external to the party") umbrella and various other social actors (e.g., industrial-pollution victims). Social protests were lively and even violent.

The most serious of these incidents was the Mei-li-dao incident of 1979 when more than one hundred protestors, many of whom were well-known political activists, were thrown into jail.[31] That led to increasing sympathy and support for the opposition. The KMT regime was confronted with the dilemma of how to deal with the ensuing social and political upheaval: suppress it and risk the collapse of legitimacy or tolerate it and promise reform by relinquishing some control. The lesson learned from the Mei-li-dao incident stayed with Chiang Ching-kuo, the president of the Republic of China. In the mid-1980s he chose the latter solution. This was partly because the KMT was confident that with its abundant political resources it could continue to rule even in a democratic system. As a result, Taiwanese society witnessed dramatic political change, including the founding of the Democratic Progressive Party (DPP) in 1986, the repeal of martial law in 1987, and the abolition of media censorship. Finally, sustained mass movements were able to overturn Taiwan's ossified political system. This political upheaval provides the backdrop to our discussion on the role played by Taiwanese LNGOs.

One outcome of the turmoil was the enactment of the Labor Standards Act in 1984, which was passed under pressure from the United States. The new law provided a legal platform for labor activism. The act granted workers for the first time the legal right to minimum wages, fixed weekly working hours, holidays and annual leave, overtime premiums, redundancy and severance pay, and labor contracts. Many employers, however, ignored the new labor laws. The breakdown of the authoritarian regime galvanized workers' pursuit of legal labor rights into overt collective resistance. Some workers decided to launch more radical actions, such as demonstrations or strikes.

One good example was when the Taoyuan Transportation Company Workers' Union launched an unprecedented strike to demand unpaid overtime wages and wage increases on Lunar New Year's Eve 1988. The strike became a national hotspot because of the possibility of paralyzing Taoyuan County's entire transport system during the New Year holidays. The central government intervened in response, deploying buses from the state-owned transport company. The strike triggered a domino effect of further strikes in public transportation in five other counties over the next eighteen months.

The Labor Standards Act also stipulates that companies must pay an annual bonus to workers. When management did not distribute bonuses during the Lunar New Year in 1988 and 1989, two strike waves irrupted in the profitable petrochemical and other manufacturing industries. These strikes not only put serious pressure on the KMT rule but also encouraged workers in other industries to mount collective actions. Workers in the transport, automobile, and shipbuilding sectors, and to a lesser extent in the service sector, organized strikes, slows-downs, petitions, and protests in which they demanded higher wages, overtime pay, annual bonuses, and reasonable labor-management relations.

Labor grievances turned into a political force. In the 1986 legislative and the 1987 national assembly elections, the KMT for the first time lost one seat in each, respectively, to the newly formed DPP. In response to these political signals, the KMT government established the Council of Labor Affairs at cabinet level to deal with labor issues. Lee Teng-hui, Chiang Ching-kuo's successor in 1988, had to show more tolerance to collective labor actions in the first year of his presidency.

Some protests were spontaneous, but others were staged with the help of LNGOs. The workers sorely needed to learn about labor laws, publicity, political analysis, setting agendas, and planning actions. Often, it was the LNGOs that introduced such knowledge and skills while building up formal and informal coalitions with leaders of various collective actions. In the beginning these networks of labor leaders remained underground, but in the 1990s they emerged to play an important role in the formation of an independent labor movement.

There were three types of Taiwanese LNGOs in the 1980s. First, most LNGOs were founded by religious groups, in particular churches, such as the Hwai-ren Workers' Center (founded in 1983), the Ai-sheng Labor Center (1985), and the Hope Workers' Center (1986). Their aims were related to missionary services for workers. These organizations often, intentionally or otherwise, provided cover for labor activists to cultivate the first stage of labor resistance in the hostile political and social environment during the period of martial law. The second type of LNGO was organized by left-wing anti-KMT political activists. The most prominent of these were the Taiwan Labor Legal Aid Association (TLLAA) formed in 1984, the Labor Rights Association (LRA), and the Committee for Action for Labor Legislation (CALL). Their leaders harbored political intentions under the guise of fighting against labor exploitation by providing labor services. The third type was founded by pro-labor scholars such as the Academic Foundation of Labor Study that was set up in 1988. Through their academic writings they lent legitimacy to collective actions. The first two types of LNGOs were often unregistered because the KMT government denied them legal status while at the same time not banning them from operating. In some ways, the grey status of LNGOs under the KMT is quite similar to the situation in China today. Of

course, in China there are no religious groups involved in labor issues—at least, not openly; also, as discussed, labor issues are not used by individuals or groups to call for wider democratic change.

Notably, China's LNGOs are almost totally reliant on overseas funding. In Taiwan, however, most LNGOs were funded by local communities, except for those supported by churches. This difference can be explained by the increasing democratic consciousness of the Taiwanese people in the 1980s. The Taiwanese did not hesitate to financially support various kinds of anti-KMT campaigns, including the LNGOs that were regarded as part of the democratic movement.

The functions of LNGOs during the political-economic transition in Taiwan were fourfold: consciousness raising, aiding workers' collective actions, establishing activist networks, and research and union building. To raise workers' consciousness, Taiwanese LNGOs conducted various types of courses, ranging from emergency workshops to formal trade union training courses. In these courses, lectures on labor laws, action strategies, union rights, political and social analysis, and publicity and organizational skills were delivered by senior LNGO activists. In this regard, both the LNGOs in China and Taiwan have invested much effort into heightening workers' consciousness. But there is a big difference in the content of the training between the two. LNGOs in China place great emphasis on labor laws but do not usually deal with trade union rights and union organizing. They tend also not to actively organize collective actions; if they become involved at all, they do so covertly. Their Taiwanese counterparts focused on organizing. Highly distrustful of the judicial system and aware of how time consuming it was to pursue lawsuits, workers avoided bringing disputes to the court; direct action was seen as a much quicker and more efficient way of resolving labor issues. Many Taiwanese LNGOs were also of the opinion that litigation would isolate an industrial dispute from the labor movement. The struggle would not attract the media and public attention, nor would it be possible to articulate a political agenda. While core workers busily mobilized colleagues and dealt with management, the LNGOs helped to stir up public social support to put pressure on management and government. A common scene at strike sites was of the overwhelming solidarity of workers from other factories and social movement organizations who joined the picket lines.

One important part of the work of Taiwanese LNGOs during the transition was to build a nationwide network of activists through mobilization and training courses, where activist workers got the opportunity to get to know one another and exchange experiences. They also encouraged pro-labor scholars, lawyers, and activist workers to become members of their executive boards or to act as consultants. Thus, labor NGOs not only provided practical assistance to workers but also became a platform for various pro-labor actors. These networks showed

workers that they were not alone in committing to the cause and that their actions were meaningful at a time of social and political transformation. While continuing to organize more coworkers inside factories, activists cultivated solidarity from the outside.

Again, this is in stark contrast with contemporary China, where networking and organizing workers across workplaces is anathema. Only the ACFTU has the right to organize, but it does not do so. LNGOs for their part dare not step into the union's territory, definitely not openly.

A labor movement in its infancy badly needs documentation, research, and training materials. In Taiwan, LNGOs undertook this important task as civil space opened up. They published magazines to document campaigns and interviews with labor activists: these materials were widely used in training courses at the turn of the 1990s and became an important educational resource for a new generation of workers. This research catered to the needs of the labor movement and included research on labor laws, social and economic changes, labor statistics, and developments in the international labor movement. These constituted the foundation for theorizing, which in turn was articulated into praxis.

Finally, the Taiwanese LNGOs worked to build unions, which has not been the case in China. Taiwanese LNGO activists actively encouraged unorganized workers to form their own unions, providing them with useful ideas on how to tackle management and local authority's antiunion ploys and how to build solidarity among the rank-and-file workers. After the new unions were established, LNGO activists continued to provide assistance when there was no one available to run the day-to-day union operations. In some cases, unions hired LNGO activists as part-time or full-time officers, which developed trust between the unions and LNGOs.

Comparing Labor NGOs in China and Taiwan

It should be noted that there are some similarities between the LNGOs in China and Taiwan of the two eras. In both cases, LNGOs arose in response to the official trade unions' failure to represent workers. Many of their activities and concerns resemble each other given the overarching state-corporatist system. There are, however, some significant differences between the two.

Relations between LNGOs in China and workers usually remain at the level of the individual, and LNGO involvement in collective action is difficult and unsustainable.[32] Without freedom of association, militant action is not seen as an option. Some LNGOs do encourage workers to establish their own enterprise-level trade unions under the ACFTU's auspices in the hope that this strategy can gradually consolidate labor power. In Taiwan, LNGOs intervened not only in

individual but also in collective labor disputes. The establishment of trade unions was subject to the approval of the government rather than the CFL. During the late 1980s and early 1990s, as long as workers were willing and persistent about applying for permission to set up trade unions in accordance with legal requirements, liberal-minded local government officials would grant them permission. Even government officials who were reluctant to license independent unions were obliged to do so by law. Because LNGOs contributed much toward the establishment of these new unions, they usually maintained close relations with the latter. The emergence of independent unions also pressured the progovernment trade unions to transform themselves to become more pro-labor.

In China, this kind of LNGO activity has yet to emerge because the CCP's control over trade unions is so much stronger than the KMT's was in Taiwan even before 1990. Short of open rebellion, there is no room to maneuver in China, and so LNGOs do not (or cannot) take a confrontational approach to the ACFTU and CCP. The strategy of some LNGOs is to work with the ACFTU's local branches and other social organizations such as universities. In sharp contrast, LNGOs in Taiwan maintained a confrontational stance toward the CLF, and most new unions formed after 1989 refused to join the official body. As a result, the CFL and its local affiliates gradually lost their monopolistic legitimacy.

In China, labor campaigns (such as those promoting CSR) initiated by LNGOs are embedded in the global justice and antisweatshop campaigns. Because of the dim prospect of democratization in China, many LNGOs are quite depoliticized. Their concerns remain at the level of securing room to quietly carry on labor rights advocacy. In contrast, Taiwan's LNGOs saw the labor movement as part of the wider democratic movement in Taiwan. During the 1980s, many of them believed that demanding justice at the workplace was not only an economic issue but also a political struggle against the KMT's authoritarianism. While the transformation from authoritarianism in Taiwan opened up political space and emboldened LNGOs to transgress political boundaries to organize strikes and establish independent trade unions, the robust authoritarian regime in China today has confined labor activism to the legal arena.[33]

LNGOs working in China are tied to the global antisweatshop movement, hence much of their funding is sponsored by overseas foundations, trade unions, and even governments. For instance, Oxfam International's Hong Kong branch plays a significant role in providing financial support to China's LNGOs. The ease with which LNGOs in China can attract overseas funding hampers them from maturing into self-sufficient and independent organizations, however, and quite often breeds complacency and corruption.[34] It also provides an opportunity for the Chinese government to use "foreign funding" as an excuse to threaten, and even suppress, the LNGOs on the grounds that they are influenced by "external

forces." Because the international concerns over sweatshops and the CSR issues were in their infancy during the 1980s, Taiwanese LNGOs did not have the same kind of contact with the international labor movement and as a result did not come to rely on international funding.We first reviews the state-corporatist industrial relations systems in China and Taiwan under which labor resistance and LNGOs emerged. The next two sections review the postreform development of LNGOs in China and the history of LNGOs in Taiwan in the 1980s. This is followed by a contextual examination of the similarities and differences between the LNGOs in both countries. The chapter concludes with an analysis of the lessons that the current labor struggle in China can learn from the Taiwanese experience.

Lessons for Chinese Labor?

Despite the similar state corporatist context in China today and Taiwan in the 1980s, the CCP's control over civil society is much tighter, more systematic and institutionalized. We have seen the differences between LNGO activism in China today and in Taiwan during its transition. We do not think LNGOs in China will follow in their Taiwanese counterparts' footsteps. Their future and their relations with the government and the ACFTU are still uncertain. Several lessons, however, can be drawn through comparing developments in both countries.

As we have seen in the late 1980s in the transitional period, LNGOs in Taiwan worked closely with workers and thereafter with the new trade unions. At that time most companies in Taiwan were small and medium-sized enterprises (of 519 employees on average), and their employees were often not strong enough to stand up to capital and state. During the first half of the 1990s, in order to respond to business requests to improve the investment environment, the Lee government abandoned its labor-friendly position and started to suppress the emerging unions. Under pressure, enterprise trade unions began to take a more conservative attitude, thereby leaving room for the LNGOs to take a leading role in the movement.

Because of their ideological differences, however, three of the highly politicized major LNGOs (TLLAA, LRA, and CALL) were competing with one another, which caused their union-organizing activities to degenerate into "territorializing" and forming exclusive relations with the new unions. In such a fiercely competitive environment, the NGOs had to resort to the traditional legal and most familiar way of organizing workers—setting up enterprise or factory unions—rather than encouraging workers to organize across workplaces, which was outlawed. As a result, the labor movement led by the NGOs in the 1990s per-

petuated the enterprise trade union structure of the authoritarian era.

Thus, after a period of initial militancy in the transitional period, the labor movement's enterprise unionism began to show signs of weakness, and Taiwanese LNGOs in the mid-1990s failed to transcend the institutional legacy of authoritarianism by organizing across workplaces.[35] This has sowed the seeds of a declining union movement in Taiwan. Herein may lie one of the most important lessons for the Chinese LNGOs.

Drawing on Taiwan's experience, how can NGOs in China develop a more effective approach for supporting workers' collective actions and intra- and interworkplace organizing? This is a major challenge. Chinese NGOs, in our view, need to work toward three goals. First, they need to obtain more local support in terms of both human and financial resources. This can be achieved by encouraging more local stakeholders such as scholars and lawyers to become more involved in LNGO politics. Progressive Taiwanese intellectuals have been more involved in labor politics than have their counterparts in China. Second, LNGO members should look farther into the future and critically consider a direction for the labor movement, including how to influence political reforms and how to reshape strategies to respond to economic changes. As Taiwan's experience shows, the politicization of workers' economic struggle is crucial to challenging status quo of industrial relations under state corporatism. Finally, there should be a broader alliance among the LNGOs and their supporters. The division of workers along ideological lines that is often imposed by intellectual organizers should be avoided. These are important ingredients for building a class-based solidarity in the long term.

8

ONE STEP FORWARD

Collective Bargaining Experiments in Vietnam and China

Katie Quan

Waves of strikes by workers in Vietnam and China are forcing changes in labor relations. In Vietnam, since 2007, each year there have been hundreds of reported strikes by young women workers in low-wage export-manufacturing factories demanding that their wages keep up with the double-digit inflation in that country. In the last several years in China, there have also been hundreds of strikes each year, originally for back pay, but since 2010 some for higher wages as well. These strikes were not organized by labor unions but by rank-and-file workers themselves in wildcat strikes. To address the problem of wildcat strikes, leaders in both countries have advocated peaceful methods of resolving labor disputes, mainly collective bargaining.

Collective bargaining, in which workers and employers regularly discuss concerns and negotiate agreements about workplace issues, is a central feature of labor relations in most countries. In developed countries, over time collective bargaining has resulted in higher pay and better benefits for workers and led to the growth of the middle class. Strikes take place more rarely, usually only when collective bargaining reaches an impasse. By providing workers with a formal voice about their working conditions, collective bargaining shifts labor relations from being a unilateral management prerogative to a bilateral relationship in which the interests of management are balanced with those of labor.

Collective bargaining is legal in both China and Vietnam, but it has rarely been practiced. Where practiced it has been criticized for not being authentic, because in both countries unions are dominated by management employees

and/or party cadres who cannot effectively represent workers' interests. They do not engage workers in real negotiations with employers; rather, workplace union officials in both countries tend to sign template "collective contracts" without bargaining and essentially mirror laws and regulations, often without the knowledge or participation of workers.

Given this history, it is fair to ask if efforts at collective bargaining in Vietnam and China in the past decade represent progress toward workers gaining a greater voice or whether they are just the latest attempt to suppress workers by adding one more instrument of control. In this chapter I investigate these questions by taking an empirical look at the content and process of efforts at collective bargaining in Vietnam and China since 2007. My observations have led me to conclude that in both countries there has been some progress toward genuine collective bargaining. While there is a tendency toward developing a form of collective bargaining that leads to increased state-party-employer control, this danger is mitigated by the threat of more wildcat strikes. Collective bargaining has a long way to go in both countries, however, before it can become established and institutionalized, and the future depends a great deal on whether unions themselves are able to bridge the gap between the desires of their own bureaucracies and those of workers.

My information comes from interviews I conducted with key stakeholders and participants and several training sessions I held on collective bargaining in Vietnam and China. In Vietnam in 2010 and 2011, I conducted about twenty-five consultation and training sessions with labor, employer, government, and university groups, involving officials at the highest levels as well as rank-and file-workers. In China from 2010 to 2012, I also held about twenty-five consultations with provincial, municipal, district, and enterprise-level trade union cadres, and my colleagues and I have led training workshops on collective bargaining at the invitation of the official unions for district and enterprise-level trade union leaders. My comparative perspective is shaped by my experience in training workers in collective bargaining in the United States and several countries in Southeast Asia and as the head of collective bargaining for the International Ladies' Garment Workers' Union in the US Northwest during the 1990s.

Background

China and Vietnam have similar labor histories. Before the mid-twentieth century their economies were primarily agrarian, although there was some industrial and craft-based organizing. Strikes occurred among commercial workers against French colonial exploitation in Vietnam as early as 1909. During the struggles

for liberation, labor unions came under the influence of various political parties. In China from the 1920s through 1949 unions were aligned with political movements, and there was a constant struggle between unions under the Chinese Communist Party and the Kuomintang (Nationalist Party). Similarly, in Vietnam in the 1960s and 1970s, union groups fought each other in the war between the North and South.[1] After liberation in both countries, however, unions were united under the leadership of their respective governing Communist parties. Because the party ruled the state, and the state owned all factories and services, theoretically there was a single set of interests among workers, employers, and the government. Unions were mandated to simultaneously represent the interests of workers and employers, under the leadership of the party. In practice they provided welfare for workers such as recreational trips, but they never confronted employers in an adversarial way.[2]

After the change to a market economy took place in China in 1978 and in Vietnam in 1986, state-owned enterprises underwent restructuring and a privatization program. At the same time, thousands of foreign companies set up factories in export-manufacturing zones, employing primarily rural migrant women workers. Conditions in these factories were, and continue to be, very harsh as described in chapter 5 of this book. Workers toil for long hours for very low pay, and many become sick or are injured because of workplace hazards. In China more than 150 million workers face conditions like these, while in Vietnam some 26 million work under similar conditions and for even lower wages. In both countries internal migrants became the low-wage labor tier for the domestic economy as well as sweatshop labor for the global economy.[3]

In both China and Vietnam, even after transition to the market economies when the employment systems became exploitative and workers began to lodge complaints, unions continued to act as though the unified political interests of workers, employers, and government under the earlier socialist period was still appropriate. Workplace unions were often headed by senior managers who urged workers to be more productive and compliant. Unions viewed their roles as mediators between labor and management, and when disputes broke out union leaders usually sided with management. Small wonder that most workers in China and Vietnam today are ambivalent about unions at best and do not look to them to fight for their interests.

In the 2000s, however, when workers went on wildcat strikes in Vietnam and China, responses in the two countries differed greatly. In Vietnam, union and government officials typically met with striking workers and then went to the employer to negotiate a settlement. The process was peaceful, and generally workers did not fear punishment or physical harm for going on strike. In fact, the results of striking were so successful that workers in nearby factories often cop-

ied the tactics. In China, with its long history of union and government officials calling in the police to quell worker militancy and through arresting, jailing, and blacklisting leaders, most wildcat strikes were seen as threats to social stability.[4] The handling of labor strikes in each country signaled a significant divergence in poststrike collective bargaining initiatives.

Vietnam

Strikes

In Vietnam, strikes dominate the discourse on labor. Since 2003 there have been an increasing number of strikes recorded each year, reaching more than 700 in 2008, predominantly in foreign-direct-invested firms (fig. 8.1). The strikes have been primarily for higher pay to keep up with the skyrocketing cost of living, as indicated in the figure by the consumer price index (CPI) line, except for 2008 when there were fewer strikes, most likely because the global recession led to fewer orders in export manufacturing. When the CPI went down, as it has since 2012, so did the number of strikes.

Strikes are legal in Vietnam but only after a lengthy grievance process and only when led by the union. The grievance process involves mediation inside the

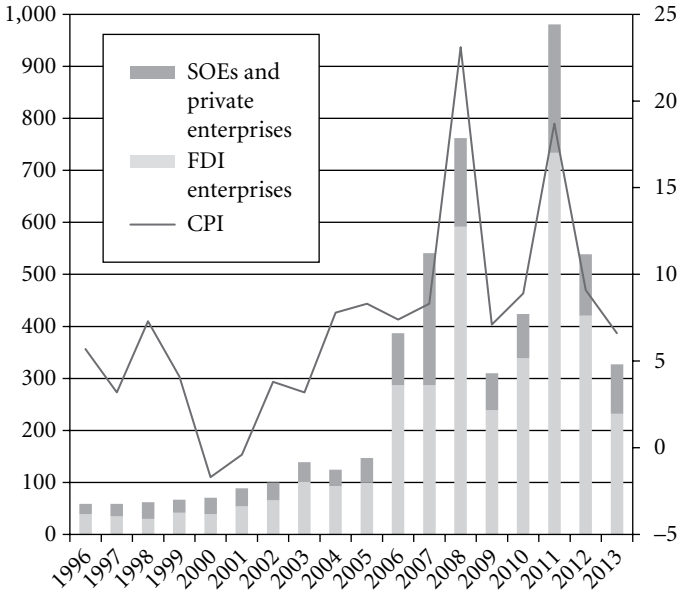

FIGURE 8.1. Strikes in Vietnam, 1996–2013. Sources: Vietnam General Confederation of Labour, World Bank.

factory, nonbinding arbitration, and a possible court judgment. Because both the grievance process and the union are ineffectual, workers often choose to take matters into their own hands and go on strike. In the initial stage of the strike, workers may call on the district-level labor department and/or union officials to come to the factory to help negotiate a settlement with the employer; they almost always win a significant wage increase along with back pay for the duration of the strike. Thus, Vietnamese workers have come to believe that striking is the most effective method for raising their wages.[5]

Collective Bargaining

In response to the wildcat strikes, the Vietnamese government has enacted several national policies to improve labor relations. These efforts range from mandating labor-law education nationally for all employers and employees,[6] strengthening collective bargaining and arbitration, and raising the minimum wage. The main focus of collective bargaining is the negotiation of national sector-wide collective bargaining agreements (CBAs), an effort that is being spearheaded by the Ministry of Labour, Invalids and Social Affairs (MOLISA). Other key partners in sectoral collective bargaining are the Vietnam General Confederation of Labor (VGCL), representing workers, the Vietnam Chamber of Commerce and Industry (VCCI), representing employers, and the Vietnam Cooperative Association (VCA), representing a substantial number of large and small cooperatives. In 2010 I was contracted to provide consultation on collective bargaining to MOLISA and its key partners for a program that was funded by the US Agency for International Development (USAID). My duties were to meet with key stakeholders individually and in groups and then to write reports analyzing current efforts at collective bargaining and providing recommendations.

The first sectoral collective bargaining was a pilot CBA covering the garment industry that employs over two million workers in 2,000 enterprises, 24 percent of which are foreign invested. This CBA was signed in April 2010 by the garment division of the VGCL and sixty-nine members of the Vietnam Garment and Textile Association, a Vietnamese textile and garment manufacturing association; it broke new ground by requiring wages to be higher than the legal minimum and by barring workers from striking. Though the CBA set minimum wages at 10 percent above the legal minimum, and the "average" wage rate was set at VND1.7 million per month, this rate was still ridiculously low and was criticized by workers and employers alike. "I could not possibly pay my workers the low wage rates in this pilot CBA," testified the general manager of state-owned enterprise Hanoi May 19 Textile Company at a conference on collective bargaining hosted by MOLISA in October 2010. She added, "If I did, all my workers would quit." At

that time she was paying her workers VND 2.5 to 3 million per month, more than the minimum wage, so with the CBA rates so low she thought that she was being told to pay a lower wage. This reflects the prevailing belief in Vietnam and some other countries that the minimum wage is the rate that should actually be paid.[7]

The CBA also included a no-strike clause that was intended to bring labor peace to an industry where strikes are rampant, but the clause was problematic on several levels. First, it conflicted with Vietnamese labor law, which gives workers the right to strike. Therefore, it was not clear whether the CBA could take precedence over the law or vice versa. "If the workers strike, I will argue that they have the right to do so, because the law should take precedence over the CBA's no-strike clause," declared one union leader at a September 2010 meeting in Ho Chi Minh City to introduce the pilot garment CBA. His argument has yet to be tested. His reasoning would likely win support, however, because in Vietnam the law tends to be regarded as the highest expression of rights. The no-strike clause is also problematic because it effectively silences workers without offering any alternative way of resolving complaints. I explained to the union, business, and government leaders that in the United States unions agree to give up the right to strike during the term of the CBA only in exchange for an effective grievance procedure that can resolve workers' complaints. Not only does the pilot CBA not provide for an effective grievance procedure but it also denies workers the right to strike. This would muzzle workers completely. I suggested that future CBAs either give workers an effective complaint mechanism or eliminate the no-strike clause.

In response to my suggestion, at a meeting of union leaders in Ho Chi Minh City in December 2011, the head of the VGCL's garment union, Truong Van Cam, stood up and passionately argued, "The garment CBA prohibits workers from striking, but if the workers strike, that is their right." I was stunned to hear the chief negotiator say that striking was not a violation of the CBA. Later, I heard the same sentiment expressed throughout Vietnam from grassroots unionists to high-level government ministers. Unlike the United States and other countries where CBAs can legally abridge a worker's right to strike, in Vietnam many believe that the legal right to strike is so fundamental that it supersedes whatever CBAs may stipulate. The legality of striking when there is a no-strike clause in a CBA has yet to be tested, but the core values these people expressed about the fundamental right to strike may well explain why wildcat strikes in Vietnam have not been suppressed harshly by the government or union authorities.

One of the biggest shortcomings of the sectoral CBA effort was the lack of appropriate representation at the bargaining table. Lower-level union officers and plant-level unions were not systematically included in the first negotiations.

Lower-level unions were not even aware of this national sectoral bargaining. On the management side, foreign employers were not included, even though most strikes occurred in foreign-owned factories (fig. 8.1). The lack of representation of these two groups threatens the effectiveness of the CBA because workers and relevant employers may feel that they are not part of the process.

Furthermore, union representatives at the enterprise level are often managers, which means that collective bargaining amounts to nothing more than managers talking with other managers—the workers are not represented at all.[8] In March 2011, I visited a state-owned garment factory in southern Vietnam called New Prokin and was guided by a senior manager named Mr. Tuan, whom I had met in Hanoi several months earlier and knew to be an employer representative. After the tour, however, when we sat down to meet in the conference room, the very same manager sat next to the director of the plant and was introduced as the union vice-president. Shocked at this blatant revelation of dual labor-management roles, I mumbled something like, "What do you do, talk to yourself?" He apparently did not think my question worthy of an answer.

After the first sector-wide garment CBA was signed, all stakeholders studied the results and responses carefully; when negotiations for the second CBA took place in 2011, some of the problems contained in the first had been addressed. Average wages were raised to VND1.95 million, an increase of 14.7 percent; this was in a year, however, when the CPI rose more than 18 percent. In the Ho Chi Minh City area, the VCCI, which is normally open only to Vietnamese, was now attempting to include foreign employers in the bargaining process through new organizational structures.[9] Union and business leaders were aware of the need to articulate the relationship among various levels of CBAs and repeatedly said that the terms of the CBA were only the minimum and that enterprises were encouraged to pay more. The one area that did not improve was the problem with the lack of a grievance procedure and the no-strike clause.

Subsequent to the second garment sectoral CBA, in fall 2011, leaders in the southern province of Binh Duong concluded a provincial textile CBA that provided even better conditions than the second national CBA. In a process driven by the top union leadership in Binh Duong, this CBA provided that the provincial minimum wages should be set at 135 percent of the legal minimum rate, and it did not contain a no-strike clause even though Binh Duong has one of the heaviest concentrations of strikes. According to the union, surveys were sent to factory owners and workers, and the union's demands were compiled on the basis of these surveys. Then a tripartite core group consisting of the provincial union leader, an employer leader, and a government leader drew up a draft CBA to circulate. There was some delay in settlement because some employers were not happy with the six-month phase-in time allotted for signatories to bring

their labor practices up to the standards stated in the agreement, citing that there had been no corresponding increase in prices paid by the foreign buyers to offset the ensuing wage rise. In the end, the mandate to achieve a CBA prevailed, and the first Binh Duong contract was signed.

The resistance of some employers to signing the CBA in Binh Duong reflects an important dilemma facing business owners in the global economy. Until now employers have gone along with the Vietnamese government's project to establish collective bargaining, in large part because they want labor peace. But Vietnamese manufacturers are actually part of global supply chains in which their buyers, the foreign brands that place orders, seek higher profits by lowering the prices they pay to manufacturers. If labor costs rise and Vietnamese manufacturers demand higher prices, there is a risk that buyers will take their production elsewhere. While wages in Vietnam are so low that they will be competitive for some time, still I urged Vietnamese business and union leaders to think about finding ways of bargaining collectively in the global economy that will retain their competitive advantage, perhaps by engaging buyers in the process.

TRAINING

In 2010, I was contracted to conduct a series of workshops on collective bargaining in Vietnam for the USAID-funded program mentioned earlier. I trained district- and enterprise-level union leaders, managers, and leaders of cooperatives in separate groups of twenty-five to forty people in two-day workshops. Union participants were chosen by the VGCL; management participants were chosen by the VCCI; and co-op leaders were chosen by the VCA. These workshops used popular training methods to engage participants to analyze their own experiences, learn the fundamental principles of collective bargaining, and give them tools to become trainers themselves. I gained a deeper understanding of collective bargaining as already practiced on the ground through the preparations for and execution of these trainings.

In general, I found that collective bargaining techniques at the local level are quite mixed. In most places there is no systematic collective bargaining, and such bargaining that takes place is not linked to the sectoral bargaining described above. When wildcat strikes occur, there is some form of negotiation either by the workers themselves or by the local labor department and/or union officials who are called in either by workers or management. These negotiations are ad hoc, and the settlements are not usually codified in collective bargaining agreements. Nevertheless, some participants claimed that they did bargain collectively regularly. For instance, during a training session in April 2011, one manager from a shoe factory drew a picture of the seating arrangement that she typically uses for collective bargaining in her factory, and another leader from a cooperative de-

scribed taking the tentatively agreed CBA to her workers' congress for approval.

During the training sessions I could sense that collective bargaining sessions to settle strikes have been quite volatile. I trained management and union groups separately, but at each session I asked half the participants to role-play workers and the other half to role-play management. When asked to perform actual collective bargaining scenarios, both management and union participants acted out wild, raucous, chaotic negotiations with everyone shouting at the same time on both sides of the table, calling out alternative proposals despite being on the same side, and being thoroughly uncivil toward one another. When I called "time out" and debriefed participants, they all verified that their role-playing was true to character. In one instance, when union participants played management roles in a laid-back fashion, one participant who was a trade union official stepped out of character and, using facial gestures to illustrate her point, admonished, "You aren't playing your role realistically. You are being too mellow. When we come to the table, the employers' faces are black and mean, and they aren't reasonable at all!"

When I was training a group of district-level union and labor ministry leaders in southern Vietnam in December 2011, it became clear that many of them had experience with collective bargaining. In a role-playing scene, when the employer said he did not have the funds to pay higher wages, one woman pounced on him saying, "I've been down to the tax bureau and have seen what you are paying. Your taxes are steadily increasing, so we know you are making money." At another point, when the employers were stalling, a participant showed that she knew about bargaining power when she pounded her palm on the table and said, "It's five minutes to four, and if I don't walk out the door at four o'clock with an agreement, the workers are going to strike!" Others on the bargaining team made similar comments that showed they had real-life experience, saying things like, "Look, the workers are calling me every two minutes on my cell phone to find out what is going on. You'd better give us what we want!" Clearly, these negotiators realized that their strength at the bargaining table lay with a militant rank and file that was waiting outside the door, ready to take action if necessary. This is one of the most fundamental principles of collective bargaining, and I was glad to see that some of the Vietnamese labor officials and union representatives understood it very clearly.

In Vietnam, both employers and union representatives expressed great interest in learning more about collective bargaining. One Sino-Vietnamese manager working for a mainland Chinese factory in Vietnam shook his head mournfully as he said, "Strikes are our biggest problem, and we really have to find a solution." Another manager said, "The workers in my factory are always going on strike. My Taiwanese boss is mean, and everyone is scared of him, including me. But I

really think that we can benefit from collective bargaining. I am going to try to convince him to allow workers to engage in collective bargaining in our factory." At the end of a national convention on collective bargaining, a vice-minister approached me, saying that at the ministerial level they also needed training on collective bargaining because they were not sure what they were getting into. This is indeed an opportune moment to engage with a variety of stakeholders on collective bargaining.

OBSERVATIONS

In Vietnam, collective bargaining is following two tracks. One track is collective bargaining that takes place at the factory level to resolve disputes. This may be done by rank-and-file workers themselves, or it may be done by district-level union cadre and/or local labor department officials. The other track is sectoral bargaining at the national level and, in the case of Binh Duong, at the provincial level. Plans are in place to apply lessons from garment bargaining to other sectors, most immediately in the rubber industry because there is already a rubber union and a rubber employers' association.

Now that the sectoral CBAs have been in place for several years, it will be important to evaluate their effects, especially on wage standards and the no-strike clause. I suspect that the no-strike clause has had little effect on workers striking, given that wildcat strikes have continued to increase in 2011 and the mainly foreign-invested factories where strikes occurred were not included in the sectoral CBA process, although they were also covered by it. Going forward, it will be important to close the gap between the sectoral CBA and enterprise-level collective bargaining by providing greater participation from the lower-level workers and employers in sectoral collective bargaining. Otherwise, there is a risk that the national efforts will become a tool simply to control strikes, with the workers seeing no benefit in it and continuing to strike in their own interests.

In Vietnam, the initiative for national collective bargaining came from the national government through MOLISA. Without its active coordination, it is hard to imagine that the employers and unions would have independently sought each other out to bargain collectively and bring uniform labor standards to the labor market. Provincial governments, however, have been less engaged and—except for the Binh Duong garment CBA, which was driven by an exceptional union leader—there has been interest, but not activity, in provincial CBAs. In my training sessions, union leaders from several provinces expressed interest in provincial CBAs, but they said they had no employer counterpart with which to negotiate. This points to the need to have an official vision and plan about the future of collective bargaining.

In my view, the key to developing a vision, plans, and policies for collective

bargaining is more practice, because more practice will provide the basis for assessing further needs. Better labor relations will eventually require rules that establish criteria for when employers are required to bargain collectively, such as what determines bargaining in "good faith," what responsibilities employers have to provide accurate information about finances, what options exist when collective bargaining fails, and what consequences will result if either side fails in its responsibilities.

In the context of a new collective bargaining system, the role of the official union, the VGCL, is brought into question. For workers to channel their bargaining demands through the union and collective bargaining, they need to be convinced that the union is operating in their best interests. But right now that conviction is missing because it is very common for managers to occupy union leadership positions. Though there may be many union cadre who are in fact acting in the best interests of workers, on the whole there is a vast gulf between rank-and-file workers and union cadre that has not been addressed by the reforms of 2009 and beyond.

China

Strikes

For many years there were spontaneous workers' strikes in China that did not capture much publicity. The main reason that workers protested was to recover unpaid wages; however, around 2010 there was a significant shift from demands for owed wages and other legal entitlements to demands for higher wages and improvements beyond legally required standards.[10] Unlike in Vietnam, it is difficult to obtain reliable data on strikes in China.

In China it is neither legal nor illegal to strike—the law is silent on this matter. Because it is not illegal, workers are not breaking the law when they strike, but employers and most government officials claim that strike actions create social and political instability. This political instability goes to the heart of Communist Party control and the concern that strikes will scare off foreign investors. Therefore, the Chinese government does not tolerate strikes and suppresses them. Since the strike wave of 2010, however, in the context of the growing income disparities that could lead to social instability, central government officials have taken steps to close income gaps by raising the minimum wage and renewing calls for collective bargaining.[11] Such concerns about income disparities and social instability have created opportunities for union reformers to advance collective bargaining and other institutional changes in new ways.

Collective Bargaining

Collective bargaining has been legal in China since 1994, but it was implemented as the signing of "collective contracts" that were templates and not negotiated. In September 2010 the ACFTU reported that 1.4 million collective contracts had been signed at 2.4 million enterprises, covering 185 million employees.[12] For the most part these collective contracts were signed at the enterprise level, though there were exceptions, such as the 2003 Wenling case in which knitwear employers in Zhejiang Province instituted collective bargaining to set market-wide wage rates so workers would not leave for competitors' factories,[13] and the 2012 Wuhan case, in which restaurant employers in Hubei Province agreed to a citywide 30 percent rise in wages to stabilize the workforce.[14] Many other examples can be found published in Chinese at the website associated with the legal organization Laowei in Shenzhen.[15] None of these individual cases, however, resulted in systemic replication or otherwise expanded the practice of collective bargaining in China.

In contrast, the sixteen-day strike and subsequent collective bargaining successes at the Nanhai Honda transmission plant in Guangdong Province in 2010 had widespread reverberations. The Nanhai Honda strike took place in May 2010 and resulted in a CBA that raised wages for workers by 24 percent.[16] This case opened up political space for unions in Guangdong to promote collective bargaining as a way of peacefully settling strikes, a significant shift in union policy that became known as the "Guangdong model." The Guangdong model also encourages grassroots elections of union officials as evidenced by the endorsement of union elections at the Shenzhen Ohms Electronics Factory by Guangdong Communist Party secretary Wang Yang in May 2012.[17] Although there have been official calls for union elections in the past that were not implemented broadly, this time it comes on the heels of a strike wave and is meant to be coupled with collective bargaining, which means that the likelihood of implementation is greater. Information in the interviews that follow confirm that, based on the Guangdong model, workers in some factories were inspired to go on strike and stand up for their rights as well as elect their own union officers.

In 2010, as associate chair of the UC Berkeley Center for Labor Research and Education, I co-founded the International Center for Joint Labor Research (ICJLR) with He Gaochao of the Institute of Political Science at Sun Yat-sen University in Guangzhou. The purpose of the ICJLR is to carry out comparative studies of labor relations internationally, and the current focus has been on collective bargaining. We have had strong relationships with many union leaders in Guangdong Province, which has enabled us to research collective bargaining in dozens of one-on-one conversations, meetings, and workshops. This unique set

of relationships is made possible in large part because of the visionary leadership of Kong Xianghong, former vice-chair of the Guangdong provincial trade union (GDFTU) and key leader in the collective bargaining that ended the Nanhai Honda strike, and Chen Weiguang, former chairman of the Guangzhou Federation of Trade Unions (GZFTU), who mandated that collective bargaining should be established throughout his jurisdiction.[18]

In October 2010 Chairman Chen attended a conference sponsored by the ICJLR at Sun Yat-sen University, where he stated his principles:

- workers' strikes are for just economic demands and are not a threat to political stability;
- the union should not mediate between employers and workers but should stand squarely on the side of the workers;
- strikes should be resolved through collective bargaining, and the union should train workers' committees to do this;
- grassroots union leaders should be elected (not appointed), and they may not come from the top ranks of management; and
- from now on the union will organize unions by organizing workers from the bottom up, not organizing managers from the top down.

These were unprecedented pronouncements that signaled hope for a new era of labor relations in Guangzhou.

Since then, Guangdong unions have invited the ICJLR to participate in several workshops on collective bargaining. In preparation for this, the GZFTU provided me with a copy of a handbook on how to carry out collective bargaining published jointly by the GZFTU, the Guangzhou Federation of Enterprises, and the Guangzhou Human Resources and Social Protection Agency.[19] In surprising detail, the handbook outlines general principles and guidelines for CBA content, processes, research on wage standards, preparation of bargaining teams, representation and spokespersons, ratification by both workers and management, amendments and termination, terms and renewals. It also provides recommendations for a labor-management committee that would monitor implementation of the CBA and resolve grievances and has information about mediation, nonbinding arbitration, and court procedures as further steps in the grievance process. It offers tips on note taking during negotiations, advice on submitting the CBA for review and recording with authorities, and provides template language for key legal steps in the process, such as requesting to bargain and recording ratification votes. Interestingly, the handbook provides for collective bargaining when there is no union present through representation by the enterprise workers' congress, focuses narrowly on wages and compensation, promotes a one-year term of agreement, and is silent on strikes. Comparing actual CBAs to the handbook, I found that

the CBAs varied; for example, one CBA for a group of engineers and technical employees was negotiated as a three-year agreement.[20]

It should be noted that the current Chinese term for collective bargaining translates as "collective consultations." It implies that employees and employers discuss issues politely and that the relationship is not adversarial, whereas "collective bargaining" indicates a conflict of interests between employees and employers. Internationally, in many countries where collective bargaining is recognized, collective bargaining is understood to mean that if agreement is not reached, workers may resort to other actions, including strikes, to press their demands. In practice in China employers are often aware that when workers' demands are not met, the workers are ready to strike. Whether intended by reformers as a strategic way to push collective bargaining or purposely designed to limit workers' rights, this semantic distinction is important to watch, given that the Chinese tend to choose their words carefully, and it is possible that in a later period of narrowed political space, opponents of collective bargaining might advance theoretical and political arguments against its broad application.

One factory where the workers understood the leverage of strikes is a Japanese-owned auto parts factory that I will call ABC factory in the Luogang Development Zone in Guangzhou. In April 2012, the enterprise union chair Ming (pseudonym) met with researchers from the ICJLR and described how he led collective bargaining. The bargaining committee was elected by a workers' representative council, a group who had themselves been elected by rank-and-file workers by department and included one office worker from the company's finance department who helped evaluate the financial data in the proposals. Bargaining was very difficult because the employer refused to meet the union's wage demands, and it was not until the workers threatened to strike that the employer moved toward settlement. Apparently, the employer remembered that the workers had actually gone on strike two years earlier in 2010 and that they were capable of doing it again. The union had to settle for less than it had initially demanded, however, and some workers were unhappy, accusing Ming of siding with management. When I saw the pained look on Mike's face, I recognized the unmistakable expression of a union leader who has tried his utmost, not for himself but for others, and yet has been accused of failing. After the collective bargaining agreement was concluded, the union published a credit card–sized booklet for union members with information about their legal rights, union structure and by-laws, union activities, and union officers' cell phone numbers.

At another Japanese-owned auto parts plant in the same industrial zone that I will call XYZ factory, in a meeting with ICJLR researchers, union chairman Qiang (pseudonym) described how he challenged the incumbent promanagement union chairman in an election.[21] He prefaced a presentation to his members by

saying that the May 2010 strike at Nanhai Honda had a significant influence on the workers at his XYZ factory who had gone on a short strike during the same period. The workers were dissatisfied with their promanagement union leadership, so in fall 2010 Qiang ran against the incumbent union chair and was duly elected by the workers' representative council. He was, however, rejected by management because he was deemed a troublemaker. The enterprise union appealed to the higher-level industrial zone union for assistance, and the zone union chairman, Zhou Zhiqiang, referencing the Guangzhou union policy of electing grassroots union officers, conducted a direct election with write-in ballots, and Qiang won again easily.

To avert further employee dissatisfaction, the employer requested wage bargaining in December 2010. Negotiations began early the following year but were difficult; they ended in an impasse when the earthquake and tsunami in Japan brought matters to a standstill. Eventually, the zone-level union was called in to help bring about a settlement. Qiang presented the challenges he had faced, which included:

- the company refused to provide the union with financial data about the business, saying that such information was secret;
- the rank-and-file membership's position was not steadfast enough;
- union bargaining representatives did not have good communication techniques among themselves; and
- negotiating only over wages was too limiting.

Qiang continued to reflect on what he had learned, saying that:

- the enterprise union should continuously communicate with union members about laws and regulations regarding collective bargaining to improve their understanding of the law and strengthen members' knowledge of their rights;
- election of bargaining team members should strictly follow laws and regulations, and the team members themselves should consolidate their opinions in order to have a unified position; and
- when negotiating, the union should mobilize all employees, and bargaining representatives must provide timely and accurate information to the general membership and let them know the direction that the bargaining team is headed, which would allow the entire rank-and-file union membership to participate in bargaining to really take ownership of the situation.

Experienced practitioners of collective bargaining throughout the world will recognize Qiang's concerns as identical to their own.

Qiang and Ming are representative of a new generation of remarkable grassroots union leaders in China who have emerged in the past few years. With little training and support, these young activists are eager to learn more about labor relations, representation methods, and effective leadership. They are educated midlevel professionals and managers who, in the United States, might be excluded from the same bargaining unit as production workers but who still consider themselves workers. They study the legal system largely on their own, know their rights, and expect that they should enjoy those rights. Unlike the earlier generation of migrant workers, they are not afraid to stand up to their employers when necessary. According to Chairman Chen, they represent one of the most promising groups of grassroots union leaders today.

TRAINING

Only a handful of union leaders are like Qiang and Ming. In a union-sponsored collective bargaining training workshop I conducted with thirty-seven district and grassroots union leaders in May 2012, I discovered that their backgrounds and experience varied a great deal. Some participants tilted toward management, saying their biggest challenge is to figure out how to "balance" the interests of workers with those of management. Others stood firmly with workers, saying their biggest challenge is to get the union to stand squarely with workers. Most said that it was difficult to convince employers to engage in collective bargaining and that they did not have enough financial data on their employer to bargain effectively. In a role-play about a bargaining impasse, these union representatives were relatively articulate at framing their demands across the table, but they could not figure out how to utilize rank-and-file mobilization to escalate the stakes and break the impasse. Even when I stopped the role-play and urged them to think about where their leverage could come from by suggesting rank-and-file action, they were still not clear about the source of bargaining power: an organized rank and file that stood ready to take action when necessary. This is in sharp contrast to the Vietnamese trade union officials.

Guangdong unionists are also experimenting with collective bargaining at other levels. For instance, the construction workers unit of the GZFTU has been organizing within the union since 2007 and now has over 130 CBAs with project managers at large construction sites. The street cleaners union signed a sector-wide agreement in February 2013, while the auto workers section of the GZFTU is considering how it, too, could establish a sectoral union.[22] Chairman Zhou of the Luogang Industrial Zone is even thinking about ways of engaging temporary staffing agencies in collective bargaining. These efforts were all driven by midlevel union cadres under the leadership of Chairman Chen.

OBSERVATIONS

In China, collective bargaining cannot be said to be taking hold nationally, but at least in Guangdong Province we see a few cases of real collective bargaining. There, top-down collective contracts are slowly giving way to hard-fought back-and-forth negotiations. Equally as important, union leaders who are managers and serve the interests of managers are slowly being replaced with pro-worker leaders. Though this is only happening in a few places, it is an important step forward that should be supported and replicated.

The challenge is to generate more of these experiments in quantity and quality, to evaluate the best practices, and to move forward based on these evaluations. An important test of best practices would be to implement collective bargaining in workplaces with the harshest sweatshop conditions—namely, excessive overtime, meager wages, and dangerous health and safety conditions. To carry out more extensive collective bargaining, there will be an acute need for training union cadre and enterprise-level union leaders. On this note, it is hard to imagine that training and implementation can be carried out across a country as populous as China without a comprehensive effort by the ACFTU. If the central ACFTU becomes involved, care has to be taken that the national effort does not become bureaucratized in a way that stifles dynamism and vitality at the grassroots level.

More practice will suggest systems, policies, and laws that should be put into place to support collective bargaining. Union representatives who have experienced collective bargaining have expressed to my colleagues and me the need for legal clarity on issues such as how to get employers to bargain when they refuse, what defines good-faith bargaining, and how to avoid a an impasse in negotiations. They have also expressed the need for information about comparative systems of collective bargaining in other countries and for ways of independently finding credible financial information about their employers.

Inevitably, the role of the union is called into question. In the wildcat strikes, workers have demonstrated that, because the union does not represent them, they have to take matters into their own hands. This threatens to undermine the very social stability and harmony that the union-party-state is hoping to achieve. Unlike the VGCL, the ACFTU at the national level has not responded to this dilemma or demonstrated strong leadership on collective bargaining, which only exacerbates the gap between union-party-state and workers. Local and provincial initiatives are important incubators for new ideas, but ultimately legislation and policies for collective bargaining will have to be established at the national level. If local best practices are not adopted and promoted by the national union, this may signal political barriers to collective bargaining and workers' voices.

Collective Resistance and Collective Bargaining

In both China and Vietnam, wildcat strikes created crises in labor relations, which opened a window of opportunity for workers to make demands on employers. The crises also have made way for other changes, such as grassroots elections of union officers in China and sectoral bargaining in Vietnam. These exciting developments are an important step forward for the labor movements in each country. They reflect a growing consciousness among workers about their rights and interests, as well as workers' capacity to organize themselves in the face of legal, political, and employer adversity. Remarkably, in some cases, they have shifted power relations so that employers are put on the defensive and are willing to try collective bargaining to obtain labor peace.

Collective bargaining is developing in different ways in China and Vietnam, with significant steps forward in each country. In Vietnam, a sector-wide union is positioned to give unions market-wide power, while in China local bargaining coupled with grassroots elections shows promise in providing workers with a voice at work. Interestingly, workers in both countries might benefit from learning from each other. For example, Vietnamese workers could learn from the strengthened enterprise-level collective bargaining and union election practices in China, while Chinese workers could learn from the sector-wide collective bargaining and peaceful handling of strikes. Workers in both countries would benefit from exchanges with labor activists in many other countries.

The role of unions in this new era of collective bargaining and grassroots elections will be challenged. In Vietnam, the central government has already engaged the VGCL at top levels to become involved with collective bargaining, while in China there is little evidence that the government has influenced the national ACFTU to make collective bargaining a high priority. To move forward in both countries, union structures will need to be established to meet the new functions associated with collective bargaining, such as union bargaining standards, councils of enterprise unions dealing with the same employer, and contract-enforcement mechanisms. Capacity to carry out collective bargaining will need to be developed from the top leadership down to the ranks. Most important, collective bargaining assumes opposing interests, and carrying it out will require unions to make a fundamental shift to representing workers' interests fully and responsibly. Otherwise, as the wildcat strikes have demonstrated, if the union does not act on behalf of workers, the workers will take matters into their own hands.

There is always the possibility that recent advances will be set back or that collective bargaining could become bureaucratized and controlled by top officials without worker input. That is why grassroots election of union representatives

is a required component of any initiative to implement collective bargaining. Otherwise management will just be bargaining with itself. In the final analysis, there is really only one thing that will assure that collective bargaining will not be co-opted: the collective resistance of the workers themselves. In the past few years Vietnamese and Chinese workers have shown that they understand this principle quite well.

9

CREATING A RIGHT TO STRIKE IN CHINA

Some Lessons from the Australian Experience

Thomas Nice and Sean Cooney

In China there is no right to strike protected by the law. Strikes are nevertheless common.[1] To cite just one well-known example, the strikes at the Nanhai Honda components factory in 2010 captivated both the local and global media. At Nanhai district in the city of Foshan in Guangdong Province, 1,800 workers took industrial action, effectively stopping work in three downstream Honda assembly plants for almost two weeks.[2] Workers demonstrated solidarity and refused to back down. They were not hesitant in bringing to bear the requisite amount of embarrassment on decision makers in order to achieve their objectives. Guangdong officials adopted a relatively lenient attitude toward the strikers, although they did send in the police in case the strike turned violent.

The strike wave of 2010, of which the Honda actions were a symptom, gave renewed impetus to debate in China about how appropriately to regulate strikes and industrial action more broadly. In contrast to most other countries, including its socialist neighbor Vietnam, China does not have an explicit legal framework for industrial action. To be sure, it seems that in many instances—the Honda case providing an important example—industrial action is tolerated to a certain degree. The absence of specific legal protection for at least some forms of industrial action, however, leaves workers who engage in such action vulnerable to a range of criminal and civil sanctions derived from the general legal system. Such sanctions potentially range from termination of employment to court orders to compensate employers or third parties for losses suffered as a result of a cessation of work, and ultimately to administrative detention and prosecution

for public-order offences.[3] The current situation in China has a high degree of arbitrariness because it is not possible to know in advance if the authorities will turn a blind eye to a strike or crack down hard on strike participants and strike leaders. Consequently, there are arguments for creating a space in the People's Republic of China in which industrial action can proceed lawfully.

Unfortunately, creating such a space is likely to be problematic in the context of the Chinese legal system, in which labor statutes tend to be vaguely worded, courts lack independence and the ability to define rights and (with limited exceptions) to interpret legislation authoritatively, and the imperative to maintain public order frequently overrides formal legal processes.[4] Added to this is the general orientation of the official Chinese trade union movement toward preventing rather than leading strikes. Furthermore, it is not clear that legalizing certain kinds of strikes will lead to a more orderly industrial environment. Workers may simply ignore strike laws, particularly if they are restrictive, and continue to take industrial action regardless of its legality. This is what appears to have happened in Vietnam where strikes occur outside the legal framework.[5] The wildcat nature of Chinese strikes (i.e., they are organized outside the official trade union body) compounds this possibility.

In this chapter we explore these significant challenges to drafting a strike law in China. In order to illustrate the relevant legal issues about the relationship between law and strikes, the most obvious comparator would seem to be Vietnam, whose political system and labor law share many features with those of China, an important exception being that some strikes are lawful in Vietnam, albeit after complex procedural requirements are satisfied.[6]

We will, however, discuss the experience of Australia, particularly in the first part of the chapter. This might at first glance seem odd to some readers, given the obvious political, economic, and cultural differences between China and Australia. While comparisons between China and Vietnam are indeed useful, Australia provides an appropriate example for our purposes. First, unusual for a Western nation, Australia, for almost all of its twentieth-century history, had no legal support for industrial action, just as is currently the case in China. This enables us to see the adverse consequences of a lack of a right to strike, even in a liberal democracy. Second, from the early 1990s, Australia introduced a very limited concept of lawful (or "protected") industrial action. The various legal formulations of that concept, which have been extensively critiqued, show the difficulties of giving legal support to a right to strike and indeed, the paradoxical effects of this support.

Our purpose in using Australia as a reference point is not to assert that that nation has some form of social, economic, or political similarity with China but rather to explore the legal possibilities in relation to strike regulation. An analysis

of the Australian experience assists in identifying important questions to ask in relation to how China might go about creating legal space for strike action.

In the first part of the chapter we draw on international literature to identify the issues that would need to be addressed in crafting a new law. This literature is illustrated by reference to Australia considered in the light of categories developed through jurisprudence of the International Labour Organization (ILO). The second part of the chapter examines the current situation in China and includes a discussion of tentative, and apparently stalled, initiatives to regularize strikes. The third part of the chapter discusses whether, given the numerous difficulties with a potential strike law in China, it is worthwhile pursuing one.

The Default Unlawfulness of Strikes

Unless they are explicitly recognized as lawful, many forms of industrial action, including strikes, are likely to lead to adverse legal consequences. One source of difficulty flows from criminal law: under various legal systems, strikes have been characterized as, for example, unlawful conspiracies or offences under public order laws.[7] This has sometimes been the case even when a strike did not involve any violence against people or property. Successful prosecution of strikers under the criminal law may lead to hefty fines or even imprisonments. Furthermore, in some countries, such as China, quasi-criminal powers of administrative detention can be also used to deprive activists of their liberty.[8]

Although the criminal law is still sometimes used to deal with nonviolent industrial actions, especially in authoritarian states, in liberal democracies it is the civil law that has been, in the period since the Second World War, the most frequently used legal weapon against workers and unions engaged in industrial actions.[9] By "civil law" we mean the law regulating, among other things, economic transactions, particular the law pertaining to contract and torts. One legal avenue of attack on strikers, based on contract, is to treat strike actions as a serious breach or "repudiation" of the employment contract that justifies its termination. In practical terms, employees can be dismissed for refusing to comply with the directions of their employer and/or intentionally causing harm to the employer's business.[10] At the very least, an employer can refuse to pay the salaries of workers who are on strike.

In China, labor contracts are treated quite separately from other types of contracts.[11] Analogous principles apply, however. For instance, the Labor Contract Law in article 39(2) allows an employer to dismiss an employee without notice if the employee "seriously breaches work rules," which is likely to be the case in a strike.

The second line of attack involves law of tort. This may make strikers and their unions liable for losses sustained by employers and third parties. If a strike is large scale and sustained, these losses can amount to many millions of dollars. For example, if strikers picket their employer and thereby prevent the delivery of goods from the employer to a customer, they may be committing a tort against both the employer and the customer. They may be liable to pay compensation for any losses sustained by either party.[12] In China, analogous actions could be mounted under the Tort Liability Law.

As far as we are aware, most strike actions in China have not yet attracted this kind of legal response. Australia's experience suggests, however, that it is possible to shift from a state of affairs in which legal actions against strikers are exceptional to one where they become more frequent. For much of the twentieth century, all strike action in Australia was illegal—there was no right to strike. This legal position was connected to the system of compulsory arbitration of industrial disputes by state tribunals.[13] (There is no such system in contemporary China.) In practice, however, strikes were reasonably common, and legal retaliation by invoking civil law provisions was rare. This is similar to the current position in China. Circumstances in Australia changed, however, in the 1980s and 1990s under both Liberal (i.e., conservative) and Labor federal governments when several employers sued unions for damages flowing from strikes. In one case, involving a national pilots' strike, a judge awarded damages in excess of six million dollars against a union, a decision that could have destroyed the union had employers sought to enforce it, which they ultimately didn't do.[14] Although damages orders remained relatively unusual, it became increasingly common for employers to obtain injunctions against strikes, which meant they could not proceed. In the aftermath of these cases, the federal government enacted a limited right to strike. The antistrike cases, however, continue to apply to workers and unions that act outside of the terms of the legislation and constitute a strong disincentive for workers to engage in unlawful industrial actions. Such a situation could develop in China.

Creating a Right to Strike

In the early 1990s, a combination of factors led the then Australian federal Labor government to enact laws creating a right to strike for the first time.[15] These factors included the increasing use of contract and tort actions against unions and workers, a shift from compulsory arbitration to enterprise-level collective bargaining, and criticism from the ILO over noncompliance with key labor conventions that include a right to strike. (The right to strike is recognized explicitly in article 8(1) of the United Nation's International Covenant on Economic, Social

and Cultural Rights and implicitly in the two major ILO conventions on freedom of association and collective bargaining.)[16]

Contours of a Right to Strike

Since the time of the original creation of a right to strike in Australian law, the scope of that right has expanded and contracted several times, particularly with changes of government (conservative governments preferring tighter restrictions). The law's essential and quite limited contours remain. In a thorough and sophisticated analysis, Shae McCrystal sets out various issues that need to be considered when formulating a strike law in a given industrial relations system. Based on the framework she constructs, McCrystal is able to evaluate Australia's law in terms of the ILO's jurisprudence on strikes.[17]

In the following discussion we set out a series of seven questions and comments that draw on her analysis. It is not the point of this chapter to assert that Australia, or indeed China, should comply with the jurisprudence of the ILO's committees or that the view of the ILO committees is normatively correct. Rather, ILO jurisprudence helps indicate what matters need to be addressed in formulating a right to strike. The discussion thus helps identify some of the regulatory possibilities available for China.

WHO HAS THE RIGHT TO STRIKE LAWFULLY?

ILO jurisprudence maintains that the right to strike should be enjoyed by "workers" in a collective sense and not by more limited categories such as employees or union members. In Australia, only employees can engage in lawful strike actions. This means that independent contractors, which may include people as diverse as truck drivers, domestic workers, and farmers, may not engage in strike actions, as they are not in an "employment" relationship. In China, work regulation applies only to certain categories of employees. Generally, these are workers in a "labor relationship" with an employing entity such as a firm. Interns, agricultural workers, domestic workers, and other workers employed by an individual are not covered by labor law. Given that any right to strike would most likely be located within the regulatory framework governing work relations, it is likely that any right to strike would not apply to these excluded categories.

WHAT COUNTS AS LAWFUL STRIKE ACTION?

The ILO recognizes a wide variety of actions that should be protected by the right to strike. These include slowdowns, selective work bans, and peaceful picketing. In Australia, the definition of "industrial action" is also relatively broad, but it does not clearly cover peaceful picketing, and this places picketers at risk

of common-law actions.[18] In the Chinese context, any right to strike would thus need to define what kinds of conduct are to be protected—the simple cessation of work or other actions such as picketing and protests that have a greater impact on public order.

WHAT ARE THE LEGITIMATE OBJECTIVES OF A STRIKE ACTION?

ILO jurisprudence indicates that the right to strike should extend to social and economic issues of direct concern to workers but not to political strikes. This broad conception covers both coordinated strikes against employers in one or more industries as well as "sympathy" or "solidarity" strikes that seek to assist workers in another enterprise. In Australia, however, the objectives of strikes are confined to the context of collective bargaining, and even then strikes may be undertaken only with respect to matters that could be included in a collective agreement (most obviously, pay and working hours). Sympathy and coordinated industry strikes involving workers taking action while they are not directly bargaining with their immediate employer are unlawful. Workers engaging in such activities are not protected against civil actions and other forms of employer retaliation. Strikes are also unlawful during the currency of a collective agreement, even if the employer violates the agreement, although some work stoppages are permitted on work-safety grounds. Clearly, the Australian law is very much narrower than the ILO approach, and it would be likely that China would adopt a similar approach; political strikes or coordinated industry strikes could readily be construed as posing a threat to the party-state.

UNDER WHAT CONDITIONS CAN OTHERWISE LAWFUL STRIKES BE PROHIBITED?

The ILO bodies recognize that in certain specific contexts, the right to strike can be restricted or even removed.[19] One such context is an acute national emergency. Strikes may also be limited in essential services, but this is rigidly defined to cover services the deprivation of which would cause a clear and imminent threat to life, personal safety, or health. In other important sectors, such as public transport, the ILO accepts a right to limit strikes—for example, subject to the provision of minimum services—but not an outright ban. Further, it is seen as legitimate to withhold the right from senior public servants but not generally to persons employed by the state. In Australia, the right to legitimate strike action can be suspended if it threatens to cause damage not only to individuals but also to the general economy. This travels beyond the permissible restrictions in ILO jurisprudence and is problematic because strikes inherently cause economic damage. Even so, many public-sector workers in Australia, such as teachers and nurses, have been permitted to engage in strike actions provided the strike is

limited in scope. In the Chinese case, any strike that threatened wide-scale disruption would likely alarm Chinese officials, and there would be considerable pressure to curtail such a strike. It is also questionable whether the Chinese government would contemplate allowing public-sector workers to engage in strike action.

WHAT PRECONDITIONS MUST BE SATISFIED BEFORE A STRIKE IS LAWFUL?

ILO decisions delineate several procedural requirements that workers must satisfy before the right to strike takes effect. The most important of such requirements are:

- an obligation to attempt to negotiate in good faith with an employer before engaging in industrial action, sometimes with the aid of external mediation;
- the need for workers' approval of the strike action, such as through a strike ballot; and
- the need to provide notice of the strike.

While these requirements may seem reasonable, governments that wish to stifle strike action can set high thresholds for these requirements—for example, by demanding a long period of notice or a complex ballot procedure or authorization by a government agency. In Australia, these requirements have arguably been used to prevent strike actions, particularly during the 2006–9 Work Choices period.[20] In China, requirements for notification and approval could be used to enable local officials to have large discretion to rule strikes illegal. Furthermore, because Chinese union officials are part of the party-state machinery of government, they may hinder attempts to obtain workers' consent for a strike. (See the discussion of article 27 of the Trade Union Law below.) These problems could be obviated if certain limited strike conduct were to be protected without the need for complex procedures. Later, we will examine a Chinese regulatory proposal that adopts this approach.

WHAT IS THE SCOPE OF PROTECTION FOR A LAWFUL STRIKE?

A further issue involves the protection afforded lawful strikers. Because of the wide range of possible legal actions against employees who engage in strike action, the protections for employees who exercise their right to strike must be comprehensive. This should include protection against employer retaliation, including dismissal, demotion, nonrenewal of a fixed-term contract on the grounds of strike action, reduction of salary, and other sanctions such as relocation. Employees, and their unions, also need protection against damages actions

(whether in contract or tort) and possible criminal sanctions, except in the event of serious violence such as assault. The ILO has also suggested that the use of replacement workers during strikes may sometimes violate the right to strike.

In Australia, there is extensive protection against workers engaged in lawful strike action.[21] This covers both employer retaliation and the possibility of tort or contract actions. In relation to the latter, the relevant statutory provision (Fair Work Act s.415) reads: "No action lies under any law … in relation to any industrial action that is protected industrial action unless the industrial action has involved or is likely to involve: (a) personal injury; or (b) willful or reckless destruction of, or damage to, property; or (c) the unlawful taking, keeping or use of property."

There is no specific prohibition from using replacement workers. Because employers are not allowed to fire striking workers, however, it is difficult for an employer in many cases to engage workers to cover the position of a striking worker. As indicated already, China has no such protections in its labor laws.

WHAT LEGAL INSTITUTIONS OVERSEE LAWFUL STRIKE ACTIONS?

Apart from questions related to the scope of a right to strike and the extent of protection of striking workers, there is the important issue of what sort of government agency gives effect to the right to strike.[22] The ILO bodies have emphasized that decisions about the lawfulness of strikes should be made by impartial bodies, such as courts or tribunals that both employers and employees can have confidence in. In many systems, including those in Australia, government ministers sometimes have significant powers to halt industrial action by taking the matter out of the hands of independent authorities. This can severely undercut the right to strike. As mentioned, local government officials in China have significant regulatory powers in relation to Chinese work laws and are likely to have an important role in any comprehensive strike regime. More limited protection, however, may not require such intervention (as in the draft Regulations discussed below).

Thus far, we have identified the kinds of issues that must be addressed in formulating a right to strike in China. Before proceeding to consider the current position in Chinese law, it is instructive to draw on the Australian example in order to note how the legalization of strikes can have a paradoxical effect. Although Australia now has a right-to-strike law, employees and their unions may legitimately wonder whether they are in fact in a better position than when there was no such right—at least before employers' readiness to engage in contract and tort lawsuits in the 1980s. Before the 1980s, a wide range of strike actions were tolerated with

few instances of sanctions. Since the enactment of a law guaranteeing a right to strike, the boundaries of what is possible have been set clearly and the space given is narrow. Straying outside those boundaries is more likely to trigger employer retaliation or government intervention than in the past.

This suggests that the creation of a right to strike is an open-ended, fraught, and ambiguous process, not necessarily an unqualified benefit to workers. There is certainly no assurance, even in a liberal democracy like Australia's, that the nature of the right will correspond to the norms of international jurisprudence. Against this background, we move to consider the situation in China.

The Present Legal Position in China

We reiterate that there is no positive legal right to strike in China. The 1975 Constitution of the People's Republic of China acknowledged citizens' right to "freedom of speech, of communication, of press, of assembly, of association, of parade, of demonstration, and to strike." This provision was meaningless given its enactment in the final years of the Maoist period. In any event, the "freedom to strike" was removed in the 1982 constitution amid fears of labor unrest caused by Deng Xiaoping's economic liberalization. The official reasoning given at the time was that "under the system of socialism and public ownership, no matter whether enterprises are state-owned enterprises or collectively owned, they are still publicly owned in nature. As such workers' interests and the enterprises' interests are the same and employer-employee adversary labor relations and disputes do not exist. It follows that there is no need to use strikes to resolve labor disputes." [23]

Of course, China's economic structure has radically changed, as since then a large private sector has emerged, and there are now more workers in the private sector than in the state and collective sectors. Many features of state-enterprise management are found in private firms. In this new context, strikes have become commonplace, and the original reasoning to justify their prohibition lacks cogency. At present, although striking in China is not specifically prohibited by the law,[24] the absence of an explicit legislated right to strike means that an industrial action can never be undertaken without fear of legal reprisal.[25] Participants in strikes do not enjoy immunity from criminal or civil punishment.[26] Managers of enterprises often have fired the leaders of industrial actions. Striking workers also expose themselves to the risk of injury through police breaking up of assemblies, demonstrations, and protests by force.[27]

While the response to the Honda strikes was relatively moderate, Chinese authorities have, especially before the mid-2000s, taken a hard-line approach to industrial actions. For example, in March 2002 some seventeen thousand workers

protested the loss of their pensions, social insurance, and payment for work performed caused by a bankruptcy that was engineered by government officials and company managers at the Liaoyang Ferroalloy factory.[28] Police subsequently arrested four key leaders for "organizing illegal demonstrations." Protests involving thirty thousand workers demanding the release of the detained leaders followed. Officials from the national government in Beijing responded by ordering a crackdown on the protests: the police used force and arrests to break up the protests. More serious accusations were lodged against detainees, and the four leaders were sentenced to up to seven years in prison on the more serious charge of "subversion."

In 2004 the ILO's Committee on Freedom of Association rebuked the Chinese authorities for the repression of the Liaoyang protest leaders, stating that "the Committee deeply regrets the government's disregard for essentially all of its previous recommendations in this very serious case and its perseverance in the punishment of acts related to labor conflict with lengthy terms of imprisonment for acts of subversion on the basis of general and vague accusations."[29]

This incident illustrates that the vague nature of much of Chinese labor legislation creates considerable scope for the law to be deployed with great force against striking workers. Nonetheless, it should be noted that one of China's distinguished labor law scholars, Chang Kai, has argued that current Chinese law—both criminal and civil—can and should be interpreted in such a way as to permit certain kinds of strikes.[30]

For example, he draws attention to article 27 of the Trade Union Law:

> In case of a work-stoppage or slow-down in an enterprise or institution, the trade union shall, on behalf of the workers and staff members, hold consultation with the enterprise or institution or the parties concerned, present the opinions and demands of the workers and staff members, and put forth proposals for solutions. With respect to the reasonable demands made by the workers and staff members, the enterprise or institution shall try to satisfy them. The trade union shall assist the enterprise or institution in properly dealing with the matter so as to help restore the normal order of production and other work as soon as possible.

Chang Kai maintains that it is implicit in this article that work stoppage and slowdowns are lawful, especially given that there is no specific prohibition against "strikes" in criminal law.[31] He also recognizes, however, that the existing legal framework fails to sufficiently protect the legal rights of workers to take industrial action in a positive way and that it moreover fails to provide a clear way

of distinguishing between legitimate and illegitimate strikes. Again, it is quite possible to argue for an interpretation of the law that allows authorities to declare that a given strike is illegal.[32]

Reform Proposals

While calls to create a right to strike have persisted throughout the reform process, it was the industrial unrest in 2010 that led to a renewed push for such a right. In the wake of the "strike wave" of that year, Chang Kai and the general manager of the Guangzhou Automotive Group corporation, Zeng Qinghong, published opinions supporting a formalized right to strike.[33] Both men were involved in negotiating a solution to the Nanhai strikes. They have subsequently discussed the specifics of what they believe would need to be included in order to enact the right to strike.[34]

According to Chang Kai, most labor disputes in China today do not have specific political purposes and are fundamentally economic actions by workers seeking to safeguard their own rights and interests. Both he and Zeng argue that the strike is "an instrument for the sake of economic interests." Zeng has argued that a labor dispute should go through the process of basic reconciliation and arbitration and litigation trials before a strike is enacted. He also makes the case that a strike must be organized by a trade union, a ballot must be held first, and the time, place, objective, participating personnel, and the like must be announced beforehand. A strike that fails to meet these provisions would be illegal.[35]

Furthermore, according to Zeng Qinghong, a legal strike must be orderly and nonviolent in order to safeguard social stability and cohesion. He argues that illegal strikes or extreme acts that endanger public safety or cause the destruction of machinery, facilities, and products should be banned with clearly outlined penalties and adds that "the relevant departments of the government may, in times of special tension, issue regulations delaying or banning strike action." Employers should have the right to organize lockouts in their factories in such circumstances and should also have the right to recruit substitute workers for the duration of a strike in order to maintain production. The permanent hiring of substitute workers, however, should be forbidden. Employers should be able to pursue lawsuits in order to stop illegal strikes, impose sanctions, or dismiss unlawful strikers and demand compensation commensurate with the losses incurred.[36] In other words, Zeng's conception of the right to strike is circumscribed by considerable restrictions.

Chang Kai argues that strikes be given "rational treatment" and that they be

treated according to legal principles. He states that because most strikes are economic in nature the state should adopt a neutral position toward them, except in the event of violence or of strikes in essential sectors.[37] In earlier writings, he contended that once a collective contract is in place both parties have a duty to adhere to it and that therefore only strikes that seek to resolve disputes that exist outside of the contract are valid.[38] In this circumstance, a strike seeking to alter an already agreed on contract would be illegal.

Clearly, the scope of legal strikes contemplated by both men (Chang Kai's approach is somewhat broader than Zeng Qinghong's) is much more similar to the regulatory framework constructed in Australia than the broader conception articulated in ILO jurisprudence. It confirms many of the suggested limitations on the Chinese right to strike discussed in the previous section. In particular, while Zeng's insistence that a legal strike must be authorized by a union is consistent with some international practice, it is highly problematic in the Chinese context. The sole Chinese trade union organization, the All-China Federation of Trade Unions (ACFTU) is an organ of the party-state, and most of its officials are not directly accountable to workers.[39]. In addition, the Chinese Trade Union Law obliges Chinese unions to restore order in the event of a dispute, not to lead strikes (article 27, cited above).

The inability of the ACFTU to organize strikes is a key reason that workers ignore the union and implement wildcat actions. Zeng, Chang, and many other Chinese scholars do call for reform of the ACFTU; there are only limited signs, however, that the ACFTU will become more responsive to workers in the near term, less still that it will be ready to take the initiative to organize a strike.[40]

The Guangdong Draft Regulations on Democratic Enterprise Management

The 2010 strike wave did not merely prompt greater public debate about strikes. It increased pressure for local governments to introduce legal reform. In 2010, the Provincial People's Congress in Guangdong released draft Regulations on the Democratic Management of Enterprises for public debate. Several subsequent drafts of the Regulations were produced, following consultation with business, government agencies, the ACFTU, and the general public. If they had been finally enacted, these regulations would have represented a dramatic innovation in Chinese labor-dispute regulation.

The draft Regulations covered a wide range of industrial issues. We discuss the third draft here. Chapter 2 concerned industrial democracy measures.[41] It set

out quite detailed rules concerning workers' congresses (*zhigong daibiao dahui*). These institutions of worker representation were quite significant in the 1980s, but their influence faded in the 1990s with the reforms to enterprise management and governance structure. There is now renewed interest in them.[42] The Regulations provided for direct election to these bodies, including mandated representation of productive line workers (at least 50%) and proportional representation of female workers. While some of the functions of the workers' congresses were advisory only (especially in private enterprises), the Regulations set out the congresses' important role in reviewing and approving collective contracts. The presence of these provisions aroused particular opposition from business interests (discussed below).

Other chapters in the draft Regulations dealt with making public workplace policies and decisions concerning labor matters (draft chapter 3) and with worker representatives on a firm's supervisory board and board of directors (draft chapter 4). They also addressed the issue of dispute resolution (draft chapter 6), with heavy reliance placed on governmental authorities and unions taking early action to resolve workplace conflict, particularly in relation to industrial action; this is consistent with national "early warning" strategies in China.

Chapter 5 of the draft Regulations concerned collective negotiation. It was in this context that a limited right to industrial action emerges. The Regulations provided that enterprise staff had a right to collective negotiation over wages.[43] These were to be conducted at the enterprise level, although there was permission for associations of small businesses and for similar enterprises within an area to negotiate a common collective contract.[44] Draft article 38 of the Regulations provided that collective negotiation could be triggered by a request from at least one-third of the workers. The enterprise union or, if it did not exist or was unable to carry out its functions, the local industry regional union had to represent the workers. The chapter then proceeded to set out the process for negotiating a wage agreement, including prohibitions on either party deliberately stalling, refusing to consider proposals, and/or attempting to coerce or induce a negotiator (draft article 46). The employer was not permitted to engage in lockouts or otherwise attack employee conditions during the negotiating process (draft article 47).

Articles 46 and 47 assumed considerable importance in relation to a later provision in the Regulations dealing with strikes. At first glance it seemed that strike action was prohibited. Draft article 48 stated that workers were not permitted to engage in industrial actions either outside a negotiating period (i.e., where no claim is made against the employer for a wage-related collective agreement) or when negotiations for such an agreement were underway. This, coupled with

the direction to labor department officials to intervene if a strike occurred (draft article 58), seemed to suggest that there were no circumstances in which a lawful strike could take place.

Draft article 64, however, contained a very important sentence—perhaps unprecedented in the contemporary Chinese context—forbidding an employer from firing employees who engage in industrial action if the action is taken in response to an employer undermining the negotiating process by violating the prohibitions in articles 47 and 48. In short, employees were apparently permitted to strike if the employer refused to bargain in good faith. Admittedly, the protection they would receive would be somewhat limited. It did not clearly prevent an employer from engaging in forms of retaliation that fall short of termination (such as refusing promotion), nor did it ostensibly prevent employer actions for damages in tort, nor did it prevent striking employees from being subject to state sanctions. It did not explain which forms of industrial action were protected. Nonetheless, the provision was an important, if tentative, first move toward creating a degree of legal protection for striking workers. Notably, it was closer to Chang Kai's proposal for a strike law than Zeng Qinghong's narrow and rather bureaucratic suggestion. It was indeed a rare example of a Chinese government body contemplating self-help (employee action against an employer) as an enforcement device in the context of labor law and not simply relying on state agencies to secure compliance with the law.

Several commentators saw this regulation as a "trial balloon" for possible national legislation.[45] Guangdong's lawmakers originally planned to return the Draft Regulations on the Democratic Management of Enterprises to the People's Congress Standing Committee for revision and passage in September 2010. After Hong Kong manufacturer and business associations lobbied strongly against the legislation, however, including taking out a full-page advertisement in Hong Kong's *Sing Tao Daily* that was entitled "Against Guangdong Government's Legislation on Democratic Management."[46] Guangdong legislators buckled, and the bill was withdrawn from the agenda for the twenty-first meeting of the Guangdong Provincial People's Congress. The draft Regulations have not been enacted into law.

Passage into law of the draft Regulations might have triggered a major overhaul of the collective consultation system that has prevailed in China over the last two decades, with collective bargaining becoming one of the principal adjustment mechanisms in labor relations under the market economy. The retreat of the Guangdong provincial government in the face of pressure from business, however, is an indication that there remain considerable obstacles to robust legal support for a collective bargaining regime.

The Uses of the Guangdong Approach

If the draft Regulations, or similar measures, were eventually to be adopted, they would identify circumstances in which forms of peaceful strike action are considered legitimate, in the sense that they merit a (far from perfect) degree of legal protection. Such circumstances resemble those in the Australian legal framework; namely, they arise in the context of bargaining for a collective agreement and at no other time. There is, nevertheless, a significant conceptual difference between the two schemes.

The Guangdong draft approach recognized industrial action as attracting legal protection when it is a response to an employer refusing to bargain in good faith. The Australian approach is somewhat broader; industrial action is legitimate as a form of economic pressure even where the employer acts in good faith, provided that there have been initial attempts at negotiation. Furthermore, the Australian legislation provides much more comprehensive protection for striking workers than the tentative Guangdong approach, which appears to have been confined to protection against dismissal.

An advantage of the sparse provisions proposed in Guangdong, however, is that they do not contain the onerous balloting and notice requirements found in Australian legislation (and as proposed by Zeng Qinghong). Indeed, in the Chinese context, in order for strike action to be protected under the proposed draft, it was apparently not necessary that strikers secure approval from an administrative authority. This is surprising given that any Chinese right-to-strike legislation would likely involve local labor supervision. It may be that the draft Regulations were constructed so as to obviate the difficulty of local labor officials being asked to endorse economically disruptive behavior. In any event, it preserved their capacity (and the capacity of other state agencies) to intervene in all cases; the draft placed no limits to such intervention, even in cases in which striking workers are responding to an employer's bad faith.

As we saw in the earlier discussion of Australian strike law, confining the scope of legitimate industrial action to the context of bargaining at the level of an individual firm, and then only in relation to certain matters, is quite restrictive. For example, many strikes in China concern enforcement of existing legal rights (as was the case in the Ferroalloy disputes in Liaoning). These were not permitted in the Guangdong proposal. Nor do they fall within the "protected action" regime in Australia, although withdrawal of labor may be lawful in some contexts of employer noncompliance with the law. Neither are "solidarity" strikes lawful in either country or in the draft Resolutions, including strikes aimed at improving the conditions of workers in supplier firms or labor hire firms—common in China—let alone strikes involving workers who are not defined as employees.

The effect of closely confining the scope of lawful strike action in Australia has been that relatively few unlawful strikes occur—the risk of legal sanction for actors who conduct such strikes is high. Unions therefore frequently urge members to avoid wildcat strikes. Does this suggest that the introduction of a system of "protected" strike action in China would similarly confine strike activity? Present trends suggest that this might be unlikely, as this has not happened in Vietnam. As we discussed, unlike Australia, in China strikes are rarely organized by unions. On the contrary, official Chinese unions are directed to try to preempt them. Many workers know this and are unlikely to be swayed by official unions urging them to engage only in "legitimate" industrial actions. In any event, it may be that few official unions are likely to encourage even "lawful" strike action. (Of course, the issue of union officials intervening would not arise in nonunionized firms unless regional or industry union leaders sought to become involved.) This is particularly the case with claims about existing rights.

One could therefore argue that regulations such as those proposed in Guangdong would be unlikely to achieve much. They would provide inadequate protection for workers—and protect only those workers covered by general Chinese labor law. They would offer no guarantee against state intervention against striking workers. It would require further significant legal and attitudinal reforms to the criminal law and administrative detention powers to do that.[47] And, from the point of view of employers and state authorities, such regulations might not reduce wildcat strike activity anyway.

Nonetheless, we see value in the proposed Guangdong approach. Preventing employers from dismissing workers who take strike action in the face of their bad faith behavior would be an important innovation that would give workers greater agency in the negotiating process and discourage bad faith negotiating. It would provide a basis from which later regulations could extend the nonretaliation principle to other forms of adverse employer action, including suing striking workers for damages. Furthermore, unlike the Vietnamese situation (and the Zeng proposal), the effectiveness of the proposed Guangdong approach is not dependent on external approval of strike action, approval that is unlikely to be forthcoming from any Chinese agency. While the Guangdong draft provisions provide no protection for strikers against hostile government intervention, which would be likely in cases of close collusion between officials and employers, they would permit state authorities to take a hands-off approach. Many are currently prepared to do, especially if workers appear to have a legitimate claim and the dispute does not escalate beyond the enterprise. Indeed, the protection against employer retaliation in such cases provided by the draft provisions may well signal to state authorities that a hands-off approach is the correct one to take.

It is regrettable, then, that in the short term at least the strike-related provi-

sions in the draft Regulations may not be enacted. They do seem to be an ingenious practical response to the Chinese labor context. It is to be hoped that they will ultimately be taken up in some form by at least some regions in China if only to see what practical impact they would have. While they would not create a full "right to strike" as it is understood internationally, they might well become an important incremental step in shielding workers from some employer-initiated legal penalties for industrial action. More broadly, they might contribute to improving the quality of Chinese workplace negotiations. As we write, discussions are again underway within the central government about a new regulatory framework for collective bargaining in China. It is to be hoped that any new framework provides sophisticated recognition of strike action, building on the Guangdong example to accord some degree of protection for workers against unreasonable employer retaliation.

Postscript: In September 2014, the Standing Committee of Guangdong People's Congress passed new collective bargaining regulations that prohibit strikes outright during the collective bargaining process.

10

TRADE UNION REFORM IN RUSSIA AND CHINA

Harmony, Partnership, and Power from Below

Tim Pringle

The similarities between China and Russia allow us to compare if not an orange with an orange at least an orange with a lemon.[1] Both countries have made the transition from state socialism to capitalist employment relations via a "socialist market economy." Both countries have introduced and developed legal frameworks to govern postsocialist industrial relations; and in both countries the return of the market economy has produced similar, depressingly familiar injustices in the workplace: poor working conditions, low pay, wage arrears, and appalling health and safety violations.

Party-sponsored trade unions in China and the "traditional" trade union in Russia also share a common inheritance. Their primary function during the prereform era was directive implementation rather than labor representation. Trade unions operated as part of the party-state apparatus. Their principal directive function was to ensure that enterprises—the *danwei* (work unit) in China and the *kollektiv* in Russia—met production targets. They functioned as representatives of the interests of the working class as a whole as defined by the Communist Party, rather than the sectional interests of groups of workers. Although this did not exclude representing members in disciplinary hearings and in grievances related to wage calculation or health and safety, such actions were invariably founded on the theoretical integration of the interests of managers and the managed.

The transition to capitalist labor relations has presented both organizations with the challenge of representing employees in their relations with employers, who have distinct and often opposing interests. Moreover, the withdrawal of the

state from direct management of industrial relations has diminished much of the authority on which primary (enterprise-level) trade unions in particular rested their activities. The corollary of this structural transformation is the transformation of the trade unions from governmental to nongovernmental organizations: from agents of the state to representatives of employees. In China the trade unions have continued formally to function as representatives of the interests of the whole of the working class, under the leadership of the Communist Party, whereas in Russia this task has been undertaken by the unions acting independently.

Thus, the absence of freedom of association in China and its admittedly rather precarious existence in Russia since 1990 provides a variable we can use to compare the performance of trade unions in both countries: the party-led All-China Federation of Trade Unions (ACFTU); and the post-Soviet Federation of Independent Trade Unions of Russia (FNPR) as well as the "alternative" trade unions that have emerged since the collapse of the Soviet regime.[2] This fundamental difference between the two countries is reinforced by Russia's multiparty system in which political parties can operate and run candidates for election. China, however, remains a one-party state that exercises a pragmatic form of authoritarian control over the population. Although history certainly matters in appraising the performance and vitality of trade unions and trade union reform, the core argument presented here is that the principal impetus for reform does not lie in the path-dependent structures of the respective national trade union institutions. Rather, it lies in the capacity of Chinese workers to exploit the relatively recent increase in their "structural" power—that is, their position in the new global division of labor—to pursue collective interests; and of Russian workers to make use of their "associational" power—that is, their right to organize independently—to do the same.[3] I argue that in both countries future trade unionism is dependent on the building of effective primary organizations capable of negotiating on behalf of their members *in opposition to* the interests of employers. This requires institutional-level recognition that the interests of employers and trade unions are entirely separate in China and in Russia a re-evaluation of the social partnership model that dominates most, but crucially not all, trade union activity.

The chapter is organized into four sections. The first section provides a context for the whole by charting the trade unions of the two countries' transition to the "socialist market economy," which replaced the former command economy model.[4] The second section examines the role and development of trade unions following the transition to capitalist labor relations during the 1990s. The third section compares two instruments of industrial relations governance: collective contracts and labor dispute resolution to redress workplace grievances. The fourth and the final section, drawing on the work of Christian Lévesque and

Gregor Murray, provides a comparative analysis of trade union performance and concludes by making the case for strong primary trade unions capable of challenging the requirements of capital accumulation in the workplace.

Trade Unions under the Socialist Market Economy

The main functions of command economy trade unions were to maintain labor discipline, encourage production, and administer a large part of the state housing and welfare benefits delivered through the workplace as a means of stimulating labor motivation. Primarily, the trade unions were an instrument for controlling the working class in a prolonged era of state-directed development.

During the 1980s, the relative economic isolation of China and Russia was gradually eroded via integration with the global economy. The respective Communist parties strove to maintain their ruling status and avoid political upheaval by constructing "socialist market economies." Although direct party management of production and industrial relations was reduced, the state enterprise continued to be a unitary body, securing the social reproduction of its labor force and serving the interests of society as a whole. The reduction of party influence in the workplace was balanced by the resurrection of workplace "democracy." In China, the enterprise staff and workers' congress (SWC) was supposed to bolster the union's backbone as it negotiated its way through the changing "web of interests" in China's state-owned enterprises (SOEs) and attempted to facilitate workers' participation in economic reforms.[5] As early as 1978, Deng Xiaoping was strongly advocating that, as the organization in charge of both convening SWC meetings and running its day-to-day business, the ACFTU's primary branches were ideally placed to enable workers to "elect section heads and other junior management . . . [discuss] major issues . . . [and] suggest replacements of leading personnel."[6] The inclusion of management in the structure of the SWCs, however, blurred the increasingly obvious divide between management and workers, with the former being much more dominant. At the same time, the structural inability of the SWCs to ensure that Chinese workers' voices were heard was exacerbated by the reluctance of SOE managers to use the autonomy they were acquiring via policy and regulatory reform,[7] especially the introduction of time-limited contracts for new hires in 1986 and the SOE Enterprise Law of 1988 that designated the SOE director as representative of the legal person with the power to bind the company to contracts, including labor contracts.[8]

In Russia, the 1983 Law on Labor Collectives established the elected labor collective council as an advisory body with limited powers and considerable duplication of trade union functions. This duplication was rooted in the regime's

lack of confidence in enterprise trade unions' capacity to maintain industrial peace rather than any anxiety that the union would adopt an adversarial role to economic reform.[9] Not unlike the role of SWCs in some of the protests of SOE workers in China against deep restructuring and privatization in the late 1990s, it was the labor collective councils—rather than the trade union committees—that were more likely to become a vehicle for Soviet workers' protests in the late 1980s. The Law on State Enterprise (Association) of July 1987 strengthened the labor collective councils, which had the power to "decide all production and social questions," although the law simultaneously reaffirmed the traditional principle of one-man management. In both countries, however, the extensive patronage network of unions and management, and the persistence of the state repressive apparatus within the enterprise, meant that in most cases the labor collective council and the SWC remained firmly under management control.

The trade unions were not unaware of the challenges to representation that the socialist market economy presented. Economic reform in China facilitated close relationships between government officials and enterprise leaders, leaving workers to shoulder the burden of increasing pressure from the private sector, especially the emerging township and village enterprises that did not have to bear the welfare responsibilities that SOEs had inherited from the prereform era. As the impact of economic reform made itself felt and inflation eroded living standards, there was an increase in wildcat strikes and protests at the failure of unions to protect members' interests.[10] The strikes initially helped to build up a momentum for trade union reform that came to a head during the 11th Trade Union Congress in 1988 at which calls were made for greater trade union autonomy in order to head off the threat of independent trade unions emerging. These moves toward independence ended with the violent suppression of the 1989 democracy movement.

In Russia, by contrast, the Soviet All-Union Central Council of Trade Unions declared independence from the Communist Party in 1987. This move was generated by a trade union leadership eager to disassociate itself from more radical economic reform rather than a desire to transform the unions into representative organizations. The independence of trade unions from the party was sealed by the great wave of strikes in the summer of 1989. The following year the Soviet Constitution was amended and trade unions redefined as independent self-governing bodies, and "alternative unions," as they have become known, were permitted.

The eruption of large-scale workers' protests in the Soviet Union and the willingness of workers to participate in the 1989 prodemocracy protests in China shattered myths proclaiming the absence of conflicting interests in the socialist market economy. In both cases, workers' protests were launched outside the

established trade unions, and the formation of independent workers' organizations highlighted the established unions' inability to articulate members' grievances. The reaction of the Russian party-state to these events was very different from the response of the Chinese Communist Party (CCP), and this had important implications for the role of the trade unions in the transition to an unambiguously, if as yet undeclared, capitalist market economy in China.

Working-class participation in the 1989 democracy movement was symbolized by the emergence of workers' autonomous federations in major Chinese industrial cities. The workers' autonomous federations were able to coordinate large numbers of workers to turn out on the streets in support of the student-led movement, but their attempts to organize strikes largely failed. Following the violent suppression of the movement, the CCP tightened regulations on emerging civil society in order to ensure that workers' autonomous federations or organizations with similar ambitions did not re-emerge. Any attempts to organize formally outside the official trade unions have been severely repressed ever since. The official trade unions, which had acquired a degree of autonomy and some of whose cadres had participated in the protest actions, were immediately brought under much stricter party control, and the ACFTU leadership was subjected to a major purge.[11]

The CCP, however, also appreciated the importance of the unions as a means of maintaining social and political stability in a period of rapid social change, so the ACFTU's status was increased and its strict subordination to the party did not necessarily imply that it would serve solely as an instrument of the state. Anticipating developments to come, ACFTU president Ni Zhifu noted after the violent suppression of the prodemocracy protests that "trade unions must avoid simply acting as agents of the government and work independently so as to increase the attraction to workers and enjoy more confidence from the workers, leaving no opportunity to those who attempt to organize 'independent trade unions.'"[12] Thus, by 1992 the ACFTU was promoting its own position in debates regarding the legislative and policy framework of reform with considerable success.[13] In particular, the ACFTU pressed strongly for the collective regulation of labor relations—rather than on the basis of individual contracts as favored by the Ministry of Labor—and provision for collective contracts was made in the revised 1992 Trade Union Law.[14]

President Mikhail Gorbachev, on the contrary, rejected repression in favor of a strategy aimed at harnessing the workers' protests to generate pressure for "perestroika from below" and to encourage trade union reform. Using the strike wave as a lever against conservative resistance to reform, he recognized the demands but condemned the strikers' militancy, which was blamed on the failure of the traditional union to represent miners' interests. In the aftermath of the strike wave, the local party was encouraged to bring the strike leaders into its

ranks, and new trade union elections were held across the coal-mining regions in which strike leaders and activists replaced incumbent union leaders, although the radicals were soon assimilated into the bureaucratic trade union apparatus.[15] As the Soviet Union began to disintegrate, the miners cultivated relations with reformist deputies in the duma (Russia's parliament), in particular with Boris Yeltsin, who supported the 1990 "anniversary strike" by miners—a reference to the strikes of the previous year—and also a political strike called in January 1991. Although these strikes were not well supported, the latter led to the establishment of the Independent Miners' Union funded by Yeltsin.[16]

The key role of the workers' movement in the downfall of the USSR did not translate into sustainable organizational strength. At first, enterprise directors supported the strikes and used them to extract more capital and productive resources from the center; as the regime collapsed, both Gorbachev and Yeltsin attempted to use the movement to their own political ends. The miners certainly demonstrated that a workers' movement could be a powerful political source and that there was a need for institutions that could represent workers' grievances through appropriate channels. The new regime quickly made it clear, however, that future union activity would have to be based on the customs and practices of the traditional trade unions. In other words, workers' committees and militant independent trade unions and their propensity to become an adversarial force were to be substituted with social partnership. Indeed, the FNPR committed itself to a strategy of "social partnership" at its 1990 founding congress. This commitment was justified by Mikhail Shmakov, elected president of the FNPR in 1994, chiefly on the grounds that there was no alternative. He said, "Today it is clear that a decisive, open confrontation with the regime would throw our trade unions into the backwaters of public life, would deprive them of all of the constitutional means of defending the interests of the toilers, and would be a real threat to the existence of FNPR unions as a whole."[17]

By the end of the 1990s the traditional trade unions had consolidated their position in Russia. This process was helped by personal rivalries and mutual suspicions of political and financial corruption that prevented the alternative trade unions from coming together in a single federation. Indeed, it was only in 2010 that such a federation emerged.

Trade Unions under the Capitalist Market Economy

The transition to a capitalist market economy has taken place at a different pace in each country. The CCP was able to carve out a gradualist road leading to the

15th National Congress decision in 1997 to go ahead with the privatization of small and medium SOEs and subsequent entry into the World Trade Organization. The collapse of the Soviet Union removed the political conditions for gradual reform and led Russia into Chicago school–inspired reforms that included full privatization of almost all industrial enterprises.

Nevertheless, the new employment relation in both countries shares common features. Traditional "employment for life" has been replaced by a contractual relation between employer and employee. This is, by default, a relation between two parties who have conflicting interests with clear implications for the role of the trade union.[18] Although a new national labor code was delayed until 2001 in Russia, legislation to regulate the employment relation was introduced in both countries during the 1990s, including labor laws and/or regulations that prescribed the minimum terms and conditions of employment in some detail; trade union laws that defined the role, rights, and obligations of trade unions; and labor dispute settlement procedures. Provision was made for binding collective agreements to be signed between the employer and employee representatives. In Russia the laws defined quite stringent conditions under which it was possible for a trade union to call a legal strike. The following section will examine these laws in China and Russia.

Labor Law

China's first national Labor Law (1995) brought legal authority to the gradually applied institutional and regulatory reforms that had signaled the state's desire to dismantle the "iron rice bowl"—a Chinese colloquialism meaning permanent employment and concomitant welfare—during the 1980s. The law created a tripartite structure of industrial governance composed of the state (Ministry of Labor), employers who were represented nationally by the Chinese Enterprise Director's Association, and the trade unions. The reformed Trade Union Law passed two years earlier in 1992 had already reconfirmed the ACFTU as the only legal representative of the working class.

Perhaps the most striking feature of the Labor Law was its emphasis on individual labor rights. For example, only three vague articles were devoted to collective contracts, despite ACFTU lobbying for more emphasis on collective rights. The standards and range of individual labor rights covered in the law were high in comparison to those of other developing countries—although not as comprehensive as the Russian Labor Code with its four hundred articles—but weak primary trade unions made their implementation an unlikely prospect. The law was a balancing act with policy aims on one side—the regulation of the private sector and downsizing of the public sector in order to increase efficiency—balanced

against the political risks of social unrest that the dismantling of the iron rice bowl and introduction of contracts carried. The right to strike, which had been deleted from the constitution in 1982, remained a grey area, with no explicit stipulation forbidding strike action and likewise none protecting it.

In Russia, the Soviet legal framework for industrial relations persisted until the end of 1995, and the Labor Code itself was left largely untouched until 2001. This was partly owing to political instability and partly because the framework, which had proved its worth as a means of defusing conflict and regulating labor relations, was deeply embedded in the practice and expectations of trade unionists and workers.

Following Yeltsin's rise to power, labor law became the site for a struggle in which both traditional and alternative trade unions resisted government proposals for draconian neoliberal revisions of legislation. Eventually, a compromise was achieved between the government and the FNPR, which passed through the state duma (parliament) in December 2001. The compromise preserved most of the protective elements of the Soviet Labor Code while increasing the flexibility of labor contracts, but it removed the trade union right to veto management proposals, though it preserved the trade union right to consultation. Most important, it gave an enormous advantage to the traditional FNPR unions, which were committed to social partnership, over the more militant alternative unions by effectively confining bargaining rights and the right to strike at the workplace level to the representative of the majority of the labor force—almost always the FNPR. It also substantially curtailed the already severely restricted right to strike by requiring that a legal strike have the support of a majority of the entire labor force of the enterprise, thus banning strikes by particular sections or professional groups, which had been the primary form of struggle of the alternative trade unions.[19] Strikes are also forbidden altogether on the railways, and their legal status remains unclear in other key sectors. The Labor Code was subject to revisions in 2006, all but one of which ignored ILO recommendations and "made trade union activity even harder to carry out."[20] Further attacks on trade unions came in 2009 when the Constitutional Court of the Russian Federation undermined freedom of association by withdrawing the requirement of consent from the higher trade union in the event of the dismissal of an elected trade union official.[21] In 2011, the same court formally annulled article 374 of the Labor Code that protected employees elected to trade union office. The Russian Federation Federal Law on Combating Extremist Activity has been deployed by the courts to judge some union literature as extremist and therefore illegal.

In 2008, China's legal framework was strengthened by the introduction of the Labor Contract Law. Drafts of the law were open to unprecedented and widespread public consultation from domestic and international organizations and

academics. On the labor side, the ACFTU's lobbying for collective labor rights was shored up by submissions from international, national, and local labor NGOs, including trade union organizations, which argued for ILO-compliant standards—although the government obviously ignored calls for freedom of association. The forces of capital were equally, if not more, energetic in their voicing alarm at any potential clauses that might reverse the global trend toward flexibility in hiring and firing, wage setting, and working conditions. The US Chamber of Commerce led the charge, threatening capital flight and serious economic consequences in the event of a pro-labor final version.[22] While the end result was an inevitable compromise, the Labor Contract Law nevertheless represented the state's aim of "curbing informalization."[23] Thus, the law's final version has afforded more workers more leeway to address some of the contract-related issues that the vaguer language of the original Labor Law had bypassed. These included illegal "job deposits," deductions for a "contract violation fund," and the substitution of labor-supply contracts concluded with labor-dispatch companies for genuine employment contracts. Nevertheless, dispatch labor has increased dramatically since the law was introduced, and further constraints on its use are being discussed. The new law made written contracts mandatory (article 10), stipulated permanent employment to employees who have served two fixed-term contracts (article 14), and required severance pay for those workers whose contracts are not renewed (article 46). It also expands the three clauses on collective contracts in the original labor law to an entire chapter.

We can see that the passage of labor laws has been a key area for both the ACFTU and FNPR. In both countries the new labor laws have provided high standards on paper, not least because of the lobbying of these trade unions. In China, however, the standards are not met in part because of the ACFTU's monopoly on organizing to remove a key competitive impetus from other unions. In Russia, the FNPR's commitment to "social partnership" is reinforced by its ongoing position as far and away the largest trade union organization. This considerably diminishes the opportunities for alternative unions to challenge employers—but not completely, as we shall see. Over the past decade, the threat of instability brought about by significant and ongoing increases in labor unrest have strengthened the ACFTU's hand in lobbying for pro-labor legislation. In Russia, levels of labor unrest remain low, and the government has responded by further restricting the opportunities for organizing to improve pay and conditions.

Trade Union Law

China's Trade Union Law of 1950 was revised in 1992 and again in 2001. The revised law unequivocally illustrates the ongoing constraints of party leadership

and production-orientated trade unionism. Article 4 stipulates that unions must "take economic development as the central task" and "observe and safeguard . . . the leadership by the Communist Party of China." The 2001 revision of the Trade Union Law did push the union toward a more defined sense of its responsibilities to workers: article 2 added the clause that the union and all its organizations "represent the interests of the workers and staff members and safeguard the legitimate rights and interests of the workers and staff members according to law." An important addition was the strengthening of the union's role with regard to collective contracts. Article 6 stipulates that the union shall take part in consultation over collective contracts on "an equal footing" with employers. Overall, the politically motivated legal constraints on autonomous unionism restrict the ACFTU's room to reform. A largely fictional win-win (*shuang ying*) scenario is employed to gloss over the opposing interests that have arisen with the return of capitalist labor relations and divert attention away from instances in which the interests of workers is not only antagonistic to those of capital but also to the party itself.

The post-Soviet Russian Law on Trade Unions was adopted in 1996. Its general philosophy was one of social partnership within a tripartite framework. Article 15.1 declares that relations of trade unions with employers and state bodies are "constructed on the basis of social partnership." The new law confirmed trade union independence by removing the requirement for a trade union to register with state bodies, so that the state cannot refuse recognition to any trade union. The law is also voluntary in principle, specifying the minimum of obligations on trade unions, leaving them to regulate their organization, including conditions of membership, forms of governance, formation of primary groups, and designation of their representatives according to their own constitution, which has only to meet a set of formal requirements. The sources and use of trade union funds and engagement in political activity are also determined by the union's own constitution, with no right of regulation or control by state bodies, apart from the formidable Federal Tax Service. Nevertheless, the law provides for the suspension, banning, or liquidation of a trade union for violation of laws or the Russian Constitution, which could include, for example, participation in an illegal strike. That this is no idle threat was shown by the case of the alternative Air Traffic Controllers' Union, which had been threatened with liquidation for supporting an illegal strike in a case brought to the Supreme Court, at that time without any legal grounds, by the General Prosecutor in November 1992. After a farcical trial, which was boycotted by the union leaders, the charges were thrown out, but the union was warned by the judge that a further strike would result in the union's liquidation.[24]

Postsocialist Trade Unions in Action

Collective Contracts

The ACFTU began to push seriously for collective contracts during the mid-1990s, but these efforts were undermined by command economy traditions of integrated interests, inexperience in bargaining, and the absence of an effective bargaining partner as employer organizations were weak and largely established by the party itself.[25] Moreover, the legal framework was incomplete. Three clauses on collective contracts were successfully inserted into the final draft of the 1995 Labor Law as a result of ACFTU lobbying, but these hardly provided a sufficiently weighty counterbalance to an overwhelmingly individualistic law. Underlying these deficits was the fact that levels of labor militancy were relatively low in the 1990s, and thus there was little impetus for genuine bargaining.

There is still no distinct law on collective contracts in China. While the current regulations provide a framework for collective contracts and negotiation, they do not carry the full legal and practical implications of a discrete law. In January 2004, the existing Regulations on Collective Contracts were updated jointly by the Ministry of Labor and Social Security, the ACFTU, and the two national employers' organizations. Article 23 of the new regulations allowed for "professional personnel" to negotiate on behalf of enterprise workers and management during the consultative process, a change that has the potential to both expand and challenge the role of higher union bodies. ACFTU statistics for 2008 posted a total of 1.9 million enterprises that had signed collective contracts, covering 150 million workers or 89 percent of workers in unionized enterprises.[26] The figures should be treated with caution as collective contracts remain for the most part a top-down, quota-driven project with little actual content beyond, at best, the reproduction of legal minimum standards. Worker participation in negotiations is extremely rare.

Concomitant with top-down, quota-driven, and nonparticipatory agreements is the traditional official discourse of "collective consultation" (*jiti xieshang*) as opposed to "collective bargaining" (*jiti tanpan*). Consultation implicitly suggests that a "win-win" agreement between employer and employees can be achieved without serious contention, work stoppages, strikes, and the like. There is no need, therefore, for the more aggressive "bargaining" often perceived as a characteristic of "Western-style" trade unions and which has only recently been cautiously adopted in some mainstream discourse and media reports.

The path from consultation to bargaining has been signposted by pilot ACFTU projects in response to localized labor protests. Beginning in 2003, an ACFTU pilot project on sector-level bargaining made important progress in taking collective dialogue beyond the single enterprise. The town of Xinhe in

Zhejiang Province pioneered such a sector-level collective contract between the local trade union and an employers' organization representing 116 knitwear manufacturers that dominated the town's economy. Facing sophisticated unrest led by skilled workers who were able to command wages of up to RMB3,000 per month, leaders from the union and employers' association embarked on a process of collective consultation that developed into bargaining— despite worker representatives not being elected—eventually producing a wage table fixing job rates, commitments to annual negotiations, and a guarantee that rates could only be adjusted upward.[27] Notably, at one point during the process, the union called on party authority to compel employers who wanted to jump ship to remain at the negotiating table, demonstrating that party leadership is not always a constraint on union performance in actual conditions. While what has become known as the "Wenling model" lacks democracy and workers' participation, its success in bringing stability to a sector rife with unrest due to irregular wage payments and no pay rises for its seasonal migrant workers—notoriously difficult to organize anywhere—has been noted by the leadership. In 2007, Premier Wen Jiabao endorsed the Wenling woolen knitwear industry's collective consultation system, saying that it could be "summarized and popularized" across the country. Under the Wenling model, over the last six years, industry employee salaries have risen between 5 and 12 percent —although it is not clear if this was a real wage or money increase—and labor disputes decreased by 70 percent.[28]

A wave of nationwide labor unrest sparked by China's auto industry workers in 2010 increased pressure on the ACFTU to maintain industrial peace. The Guangdong draft Regulations on the Democratic Management of Enterprises included a clause stipulating that workers have the right to elect their own representatives to discuss wage levels with management, who were obliged to negotiate. Similar clauses were included in Shenzhen's draft Regulations on Collective Consultation. Although lobbying by Hong Kong business organizations and foreign chambers of commerce has delayed and watered down the pro-labor clauses of these drafts, it is likely, in the light of continued labor unrest, that some sort of important, if qualified, legislative improvement will be promulgated in the near future. Even before the strikes of 2010, the ACFTU's director of the Collective Contracts department, Zhang Jianguo, told the influential journal *Liaowang* that "the fundamental issue is to establish a collective bargaining system that would allow labor disputes to be managed and resolved within the enterprise. From this point of view, collective bargaining is the route we must take in defusing conflict and developing harmonious labor relations."[29]

In Russia, the 1992 Law on Collective Contracts and Agreements was passed just after the disintegration of the Soviet Union. It allowed for multiple collective agreements to be signed at an enterprise with multiple trade unions. The

result was chaos, and the revision of the law—later backed up by the 2001 Labor Code—stipulated that only one agreement was permitted per enterprise and the signatories should be the largest trade union and the management. In the general situation of declining union membership, this privileged the FNPR unions over the alternative unions.

In response to the drop in membership, FNPR unions have adopted the conservative policy of consolidating existing primary unions. They have not, by and large, directed their energies to the new private sector, where trade union density remains extremely low. In terms of collective contracts, consolidation has led to an expansion in the coverage and quality of agreements and trade union representation in already organized workplaces. In 2008, the FNPR reported 77 regional agreements, 6,461 territorial agreements, and 169,307 collective contracts. This constitutes slightly less than 90 percent of establishments with FNPR unions.[30] Although these figures need to be viewed with caution, they demonstrate how the FNPR has been able to retain its dominant position vis-à-vis the alternative unions.

There is less trade union activity in the private sector. Because of the higher-level unions' commitment to social partnership, support to primary organizations rarely involves providing direct assistance and generally takes the form of training trade union leaders, support in the negotiation of collective agreements, and the provision of legal advice and support in the judicial resolution of individual and collective disputes. The higher-level trade union bodies do negotiate sector-level (branch) and regional agreements, which provide a framework of minimum terms and conditions of employment for the industry and/or the region for the negotiation of enterprise-level collective agreements.

As noted, the improved economy had allowed room for improved agreements before the 2008–9 global financial crisis. Whereas in the 1990s collective agreements rarely included any binding commitment on wages or provided any significant improvement on the terms and conditions prescribed by the Labor Code, today it is far more common for the collective agreement to include provisions for expanding the range of benefits and increases in pay within an enterprise's financial capabilities. In the booming oil and gas and metallurgy sectors, unions are able to adopt a more confrontational approach, backed up by threats of collective action. Yet the key question remains the weakness of the primary organizations, and, as we have seen, the FNPR leadership has yet to overcome this deficiency.

One way of making up for the lack of muscle on the ground has been to encourage sector-level agreements known as "branch tariff agreements." These usually include minimum wages and social welfare provisions as well as more important clauses on pay differentials and wage adjustments for inflation. The

principle barrier to the development of this policy is the weakness of employers' organizations, and in some cases these have been set up on the initiative of unions themselves in order to provide a negotiating partner. Although sector-level agreements apply only to employers who sign on to them, the FNPR has encouraged primary unions to use them as a reference point for enterprise-level collective agreements. In 2007, FNPR-affiliated and cooperating trade unions had signed sixty-two branch tariff agreements, although very few of these met the key tasks set out for them by the FNPR. For example, only three of the twenty-nine agreements in the private sector (oil, chemicals, and construction) provided for a minimum wage equal to the subsistence minimum, nine included recommendations on pay differentials, and eight on the average wage in the industry. Fifteen fixed the proportion of basic pay in the wage, but only four achieved the FNPR goal of setting this at 70 percent of pay.[31] The global financial crisis of 2008–9 led to employers in the oil industry refusing to sign agreements, and in six of the twenty-nine private-sector agreements, the specified minimum wage fell below the legal minimum.

The key difference between China and Russia is that the former has not yet developed a system of collective bargaining, although policy appears to be edging in that direction. Any system of bargaining that lacks freedom of association and protection of the right to strike is, however, unlikely to do the job and may even provoke further unrest. In Russia, collective bargaining has made some progress during the period of economic recovery, but this has come under threat from the global economic crisis and labor legislation that privileges the traditional trade union over alternative unions.

Trade Unions and Labor Disputes

China's labor dispute resolution system consists of three sequential stages: enterprise-level mediation, arbitration (including mediation), and the courts. In Russia, individual disputes go through a two-stage process in which application to the courts must be preceded by negotiations at an enterprise-based labor-disputes settlement commission (Labor Code, article 390), except in certain circumstances. The same principle applies in China where court applications must be preceded by arbitration. The 2008 Chinese Labor Dispute and Mediation Law simplified the procedure for workers applying for arbitration and reduced the financial burden, but many of the potentially positive effects of this law were cancelled out by some local governments' special measures to counteract the effects of the financial crisis.[32]

Although China does not have a separate national law for resolving collective disputes, Russia passed the Law on Procedures for the Resolution of Collective

Labor Disputes in 1995. According to the law, collective labor disputes are only recognized if they occur as a result of disputes directly related to the conclusion or implementation of a collective agreement. Disputes with an employer in which workers unite in support of their labor rights are defined as individual labor disputes and can be resolved only on an individual basis. This means that collective action, such as a strike, cannot be taken even in connection with issues such as the nonpayment of wages, unless the collective agreement specifically provides for the timely payment of wages. It also means that participants in a solidarity strike, a work stoppage with political demands, or with demands that are not related to the collective terms and conditions of work can be punished for absenteeism under the Russian Labor Code. Even in the case of a collective dispute, the procedures for the resolution of the dispute are very restrictive, making it extremely difficult to organize a strike in conformity with the law, which requires a prior process of conciliation and arbitration and the consent of a majority of the labor force in every establishment affected by the strike decision.

Nevertheless, legal strikes are possible in Russia, which is not the case in China. The issue of returning the right to strike to the statutes is contested by some labor activists who fear that the process of organizing a legal strike would be constricted so as to render that right largely ineffectual,[33] as is frequently the case in Russia. Notably, the absence of clarity regarding the legal status of strikes has not had any noticeable impact on Chinese workers, many of whom have come to regard strikes as their most effective weapon.

Ideological constraints and a lack of bargaining power and organizational strength in the workplace have encouraged trade unions in both countries to channel disputes into the bureaucratic or juridical dispute-resolution procedures summarized above. The ACFTU has been spurred into action by pressure from below—labor militancy—and from above by the CCP, as it strives to ensure social stability. The CCP leadership are no doubt cognizant of the role labor militancy played in the downfall of the former Soviet Union and regard the ACFTU as a key institution in ensuring that its social harmony project extends to the workplace. By contrast, legal action to secure the implementation of labor legislation in Russia was pioneered by alternative unions that lacked the collective strength to negotiate directly with management. They protected their members against victimization and illegal dismissal and sought compensation for industrial injury and by the mid-1990s were active in pursuing the nonpayment of wages through the courts. Faced with competition from alternative unions, the traditional unions saw legal action as a means of defending their members without having to engage in collective action or direct confrontation with management.

The ACFTU has established legal departments at national, provincial, and local levels and set up centers to provide legal advice and representation for workers in arbitration and court proceedings. In general, however, there are strict limits as to which cases ACFTU lawyers will take on. On the one hand, they will provide support in cases where there has been a flagrant legal violation so that they can be guaranteed to win. On the other hand, they are reluctant to provide support in the case of collective disputes. For this reason, in southern China and East China there has been a mushrooming of legal advice centers run by NGOs that help workers to file and pursue the kinds of cases in court that the ACFTU steers clear of. As militancy has increased, labor lawyers are increasingly handling collective cases, especially after the Labor Dispute and Mediation Law was promulgated. The FNPR, to the contrary, uses legal action—or the threat thereof—in response to violations of the Labor Code or the collective agreement. This has become the preferred means by which the traditional unions seek to defend the interests of their members and is thoroughly integrated into the structure and practice of the best of the regional and enterprise trade union organizations. Most have hired lawyers and opened legal-advice centers to serve their members and member organizations.

Nevertheless, the escalation in the number of cases proceeding to arbitration and judicial resolution is an indicator not of the success but of the failure to develop effective trade unions and adequate industrial relations institutions. With the exception of some small plant-based militant unions in Russia, trade unions in both Russia and China have avoided confrontation with employers, preferring bureaucratic-legalistic strategies of dispute resolution. Political restrictions in China, especially when there is no threat of competition from alternative trade unions, are partly responsible for the ACFTU's caution even in this relatively safe field of union endeavor. Although the FNPR and alternative unions are more proactive, the strategy has severe limitations in the context of Russia's current labor and trade union laws. On the one hand, it individualizes and fragments the dispute because there is no provision for collective or "class actions." On the other hand, legal action is a long-drawn-out process, generally involving deferred hearings and repeated appeals to higher-level courts. On the rare occasions in which collective unrest erupts into strike action this has most often come about despite the traditional trade union, which, if it does not ignore the dispute, seeks to confine it within "constitutional" judicial channels.

Thus, strikes in both countries do not usually go through the prescribed legal procedures and are far more likely to be organized by an alternative union where it exists. In China, strike action is almost always disapproved of by the enterprise trade union. The higher-level union organization will intervene to mediate and restore production, but it will rarely express support for a strike—although

it may call for strikers' protection against vengeful employers. In Russia, if the enterprise union supports a strike against the advice of the higher-level union organization, the strike may result in the disaffiliation of the enterprise union from its higher trade union organization and its reconstitution as an independent trade union, which subsequently may or may not affiliate with one of the alternative union federations. The following section compares trade union responses to an important strike in each country.

China Strike

During the period April 4–6, 2007, a strike by gantry and tower crane operators at the Yantian International Container Terminals Limited halted the flow of exports from China to European and US markets.[34] The action followed successful strikes by workers at nearby ports. Over one hundred thousand containers bound for more than one hundred container ships were delayed, as Chinese workers took advantage of their structural power—that is, their location in the economy.[35] The strike attracted considerable global media attention and derailed company attempts to blame the work stoppage on faulty fiber-optic cables. The crane operators made three broad demands: first, that pay reflect the increase in company profits and that working at height allowances be paid in full; second, that management include a full paid hour for lunch instead of deducting a half hour per working day from workers' agreed holiday allowance; and third, that a union be established with elected representatives' wages *paid by the workers themselves*. The existing company-sponsored staff association was dubbed a "white-collar club" by the strikers.

A high-level delegation of the Shenzhen Federation of Trade Unions (SFTU) immediately descended on the port in the early hours of the morning to try to kick-start negotiations. They arrived to find a tense and chaotic scene. But by breakfast time the SFTU had established contact with management; assured the strikers that a union would be established in accordance with Chinese law; promised assistance in the selection of worker representatives to negotiate the demands; and assured strikers that it would compel management to come to the negotiating table, a promise it was able to make because of its close contacts with the Shenzhen government and party committee. Following negotiations, all the workers' financial demands were basically met: striking workers received a 3 percent pay rise, a half-hour off each working day, and significant bonuses for working at height. The chair of the SFTU deemed (correctly) that the strikers' demand to elect and pay the wages of representatives violated the law but agreed that elections for a trade union committee at the port would be held. After the strike, sixteen frontline workers were elected to the trade union com-

mittee, defeating most of the names put forward by the SFTU. The result angered some engineers, who then left the union claiming it did not represent their interests, which panicked management into restoring pay differentials that had been reduced by the wage rise for the port workers. The SFTU was eventually able to organize a compromise by extracting assurances that no one would be fired by Yantian International Container Terminals for supporting the strike and asking workers to take account of the "bigger picture" and maintain unity.

Russia Strike

In the same year, a strike at the Esaul'skaya mine in Kuzbass, Siberia, demonstrated how miners' attempts to use their formal associational power—that is, the right to freedom of association—was undermined by legal constraints and traditional practice by the higher trade union. The mine was one of the most productive in Kuzbass, with a strong trade union committee that had secured high wages and social benefits in the collective agreement. The primary union had, however, long been in dispute with the higher levels of the trade union over what were seen as the conciliatory positions of the latter.

The dispute arose when a new management came into the mine with a union-busting agenda. Esaul'skaya, like several other mines, had always maintained eight-hour shifts. These shifts suited the workers because the mine was a long way from their living quarters in the city, although according to the Labor Code coal miners should only work six-hour shifts. However, the reduction in the length of shifts increased the overall time spent travelling to and from work, effectively prolonging working hours. Following several fatal accidents, the local prosecutor obtained a court order instructing the implementation of the six-hour shift regime. Management announced the change but was unwilling to negotiate an increase in pay in compensation for what was effectively an increase in working hours resulting from increased travel time required to work a forty-hour week. The workers were incensed, but the mine trade union committee held them back from a wildcat strike while it went through all the procedures required to initiate a strike. Meanwhile, attempts were made through the courts to declare the planned strike illegal on the grounds that the dispute sought to challenge the law, which could not be the subject of a collective labor dispute, and that an agreed schedule of work to preserve the mine during a work stoppage had not been drawn up. Workers and members of the trade union committee were threatened with dismissal; the union was denied premises to hold meetings; and all manner of threats and barriers were raised. Above all, both the regional and central committees of the miners' union not only failed to support the mine trade union but also publicly condemned it. Faced with the

concerted opposition of management, the courts, and the regional administration, the workers went on strike with little hope of success. On the first day of the strike management locked the workers out, and after a few days the mine implemented a six-hour shift. The trade union president resigned, and five activists were dismissed.

The workers in the Russian strike and the Chinese strike shared common ground on at least two points. First, both faced a management eager to increase productivity at the expense of their employees. Management at the Yantian port adopted a high-handed attitude toward a relatively skilled workforce, imposing wages and conditions without consultation. At the Esaul'skaya mine, management also took an arrogant stance toward experienced miners, bypassed existing agreements, and imposed longer working hours without consultation. Second, neither the port workers nor the miners were happy with their representative structures, although at different levels. At the port, representation was confined to a management-controlled "staff association" that, even by Chinese standards of workplace representation, was a joke. At the mine, strong primary union representation was undermined by the higher trade union's commitment to social partnership.

The two trade unions had markedly different reactions, which led to two different outcomes. The SFTU's intervention was motivated by three main concerns: to restore production at the port as soon as possible; to stop the strike from spreading to other ports; and, most important, to prevent the workers' militancy from creating conditions in which the seeds of a "second trade union" could take root. So, despite Chinese crane operators earning at least three times the average pay of factory workers in Shenzhen, the port workers won all their economic demands. The political demands of the strike were compromised by the SFTU's insistence that the establishment of a primary union to replace the management-backed staff association be carried out according to trade union law, which worked against democratic representation in favor of the ACFTU's monopoly. As far as I have been able to ascertain, there were no dismissals resulting from the strike. The role of the higher trade union responsible for the Esaul'skaya mine was motivated by the traditional trade unions' support for social partnership over class struggle and concomitant compliance with labor laws, even if this meant betraying the strikers. This position drove a wedge between the grassroots members of the workplace union and the higher union, which backed management despite its dismissal of union activists.

Although the unions in the two countries employed different methods to do so, the higher-level union organizations in both worked to contain militancy rather than to lead it. This commonality raises questions about the relationship between labor activism, the reform of postsocialist trade unions, and the sources

of trade union power. In the final section I highlight the importance of building strong primary trade union organizations—even in the absence of freedom of association—via a discussion of sources of union power.

The Forces of Labor and Trade Union Power

In China, the absence of freedom of association has prevented militant workers from translating the lessons of their struggles with capital and the state into organizational form. As a consequence, there is no formal institutional narrative or class memory that workers can call their own. In Russia, a tight labor market and a booming economy led to wage increases for some groups of workers in the 2000–2008 period. But this has not generally involved the levels of unrest witnessed in China. Beginning in 2006, a rather patchy resurgence in the vitality of alternative unions in Russia is fragile and under attack from the Russian state.[36] Russian workers won the right to association over twenty years ago, but the constraints of social partnership, violence against union activists, and a generally repressive atmosphere created by the state have prevented both the traditional and alternative unions from making the sustained organizational progress required to constrain capital or mount a challenge to restrictive union-related laws.

There are several causes that underpin labor militancy in China. First, the current generation of migrants have access to far more resources than their parents: a higher standard of education; access to communication technology; a collective and informal bank of knowledge of the factory system passed on between generations; and access to a growing number of campaign-hardened Labor NGOs (LNGOs) that are often able to call on labor movement actors and resources beyond China. Second, party policy has shifted away from outright repression of labor militancy to a growing trend of concessions by governments at the city, provincial, and national levels. This has given confidence to workers, who are well aware of the limits of party tolerance. Whereas violence and repression remain features of Chinese labor relations, most commentators agree that this is confined to local levels with the emphasis now on building processes and institutions of resolution that deflect energy away from organizing. The most promising of these developments is the emergence of a strong lobby for the introduction of collective bargaining, inspired by the numerous instances of semiformal bargaining currently integral to strike resolution. Third, and in my view the most important factor, has been the systemic labor shortages. This has encouraged workers to make use of a structural power rooted in the tight labor market, just-in-time production methods, and, perhaps more controversially, continued access to land-use rights in their place of origin in the event that militants are blacklisted

or migrant workers laid off. The ACFTU has certainly responded to the militancy, and it must be conceded that its efforts to head off independent unions have been successful, insofar as a national independent labor movement or alternative labor organization has not emerged—at least not yet.

And it is here that the crucial importance of freedom of association is apparent, as its absence means that workers are rarely able to translate the fruits of their struggles into organized alternatives. The dramatic nineteen-day strike over pay and inadequate union representation at the Honda-owned Ben Tian car-parts plant in the Nanhai district in Guangdong Province, illustrates the point. Assisted by LNGOs and a sympathetic media, the strikers received a high level of international support, especially after some of them were physically attacked by thugs organized by the local Nanhai District Trade Union, triggering condemnation by both the Guangzhou city and Guangdong provincial trade unions. The dispute was eventually settled in the workers' favor via bargaining between managers and thirty elected workers' representatives advised by a well-known labor scholar—itself an illustration of the provision allowing assistance from outside personnel stipulated in the 2004 Regulations cited earlier.

But again, the bargaining did not include the workers' demands to "reorganize the [enterprise] union," which was deemed by both management and the labor scholar as an internal union matter.[37] Thus, the establishment of a potentially strong and energized primary union was deferred until after the strike was settled, paving the way for the bureaucratic intervention of the forces of "harmony"—the party and the state. Following a series of meetings between senior trade union officials, company executives, city officials, and workers' representatives, trade union elections were held between September and November 2010 in which workers' direct participation was limited to the first round of elections and this has remained the case.

Labor activists in Guangdong have since expressed disappointment with the apparent gradual isolating of the elected trade union committee by management.[38] At the same time, Chan and Hui have found that the plant trade union demanded a 41 percent wage increase in 2011, which was countered by a 27 percent offer from management. Eventually, a compromise of RMB611 (30%) was reached following negotiations in which, according to the Guangdong Federation of Trade Unions, the union played a key role in driving both parties to reach agreement.[39] As with Yantian, it is clear that the ACFTU is willing to take up calls for significantly improved wages, but it pursues such claims almost exclusively within the strict parameters of trade union law, isolating workers from sources of power directly connected with their own collective class interests in the process. In contrast, some alternative Russian unions have been able to draw on the sources of union power. These include solidarity and identity, narratives of

struggle and action, infrastructural resources (materials, human commitment, policies, and programs) as well as connectivity with external resources such as community organizations and external social and labor movements.[40] In China these resources are channeled or redirected through the ACFTU itself, as there is no alternative institutional expression of labor power to take advantage of them. A catch-22 situation emerges in which workers' consciousness of the collective power required to take part in a strike is redirected away from class-based organizational forms with the capacity to develop the deeper class consciousness required to nurture the resources identified by Lévesque and Murray. Indeed, Chan predicts that in the absence of a "deeper class consciousness" state-led trade unionism will remain largely unchallenged.[41]

Democratic grassroots union power expressed through strong primary-level organization emerged at the Ford assembly plant at Vsevolozhsk outside St. Petersburg.[42] The contrast with the events at Honda and Yantian in China is all too clear. Two Vsevolozhsk workers were inspired to reorganize their plant following a chance exposure to militant Brazilian auto industry unions. One of them was the charismatic Alexei Etmanov, who has since been physically attacked at least twice and is still harassed by thugs. Etmanov and his comrades were able to persuade a majority of the plant workers to vote for a new union committee, secure bargaining rights, and use targeted strike actions to improve the collective agreement with Ford. By connecting with activists in other auto plants, they organized the Inter-regional Trade Union of Motor Industry Workers (MPRA), which elected Etmanov as president. In stark contrast to the events at Yantian or Honda, this narrative of struggle and action was channeled into infrastructural resources beyond the traditional unions. Although efforts to emulate the success at the Vsevolozhsk Ford plant at other St. Petersburg enterprises have failed, the MPRA nevertheless provides an alternative version of trade unionism that does not exist in China.

This, shall we say, "sustainable institutional alternative" engages members and potential members at all times, so that it is a participatory rather than a bureaucratic organization—a feature of internal solidarity Lévesque and Murray refer to as "deliberative vitality." The commitment of the MPRA to militant unionism also provides a mobilizing repertoire that the traditional FNPR confines to choreographed Labor Day marches that the ACFTU rules out altogether.[43]

Need for Developing Grassroots Collective Organization

This variety of "alternative" is currently unimaginable in China and vulnerable in Russia, where the traditional trade union has a membership of twenty-eight

million or half the workforce and the state has passed laws that accept the existence of independent trade unions but constrain the very activities on which they thrive.

The CCP still examines the issue of freedom of association through the lens of regime survival. It has encouraged and welcomed the ACFTU's efforts to reform for the sake of industrial peace, but it has also ensured that the union does not stray into activity that may encourage, rather than head off, a "second trade union." With these qualifications, it has allowed individuals both inside and outside the ACFTU to push trade union reform directly and indirectly. The collective wage agreement in Xinhe relied on the initiative and innovation of local actors who were unaware of the existing regulations on collective agreements and instead constructed an innovative party-led sector-level bargaining process that was based on actual existing conditions: the absence of freedom of association, sophisticated labor protests by experienced migrants, labor shortages and concomitant high labor turnover, and the local government's fear of losing tax resources in the event of capital flight. For the local unions, including the newly established sector-level union, party authority was used as a resource to control larger employers threatening to leave the bargaining table. The Honda workers in the Nanhai district of Foshan and the crane operators in Yantian port were able to use their critical place in the international supply chain to achieve a positive outcome requiring a shift in trade union behavior. No doubt encouraged by visions of a backlog of container ships waiting to be loaded offshore, the Shenzhen Federation of Trade Unions moved quickly to extract concessions on wages and conditions from port management as well as a guarantee that strike organizers would not be penalized for their militancy. As production in Honda's sister plants in China ground to a halt for want of parts, the Guangdong Federation of Trade Unions did not condemn the actions of the strikers but rather encouraged the collective negotiations.

Crucially, none of these welcome changes in ACFTU behavior threatened its monopoly on labor organizing, effectively depriving the institution of competitive pressure as an impetus for deeper reform. This is not the case in Russia. Despite the parlous state of sector-level and industrial-level trade unions originally formed as breakaways from the traditional unions by dock workers and air traffic controllers and the near collapse of the Independent Miners' Union (the union at the heart of the movement that toppled the Soviet Union), alternative trade unions have acted as a spur to the traditional trade unions in harnessing worker activism. As Mikhail Shmakov, FNPR president, acknowledged, "in general the existence of the alternative trade unions is even helpful. Competition does not allow us to stagnate."[44]

At the same time, Shmakov is, in effect, reducing freedom of association to a comparative advantage over China—an analogy he extended to Chinese workers

themselves when he warned foreign multinationals in 2008 that "Russian workers are not Chinese workers. We will fight." The reverse is nearer the truth: workers are more likely to resort to direct collective action in China despite the absence of alternative unions, but as yet they have not found the space to form an institutional alternative to consolidate the lessons from their struggles. As with the ACFTU's focus on so-called win-win trade unionism, the FNPR has also concentrated on avoiding confrontation with employers in general and the Russian government in particular. Its commitment to social partnership limits the potential lessons to be learned from alternative unions and indeed from workers themselves.

This chapter offers a comparison of trade union reform in two large postsocialist countries. The comparative justification lies in the path of transition: from a command economy to a market-orientated economy in which capitalist labor relations have emerged from a hybrid phase referred to as the "socialist market economy."

The antagonistic interests that define capitalist labor relations present challenges to trade union movements originally developed within the integrated interests of a planned command economy: workplace-based administration of welfare provision is replaced by a struggle for social insurance and access to welfare; consultation on how to meet production targets set by the center is replaced by the challenge of collective bargaining at firm, sector, and industry levels over labor's share of profits; and the authority of management is defined by property rights (albeit deliberately hazy) rather than state-defined common ownership. The key variable is that trade unions in Russia have met these challenges independent of the deposed, but still popular, Communist Party; Chinese trade unions have remained under the leadership of the increasingly unpopular CCP. Many commentators expected that freedom of association in the former Soviet Union would facilitate the forces of labor in Russia in organizing a strong challenge to capital and, where necessary, the state itself. By the same measure, the absence of the right to organize independently in China would perpetuate a regime of unfettered exploitation characteristic of the export-orientated regime adopted by the Chinese state.

This has not happened. Following a free-for-all period that reached its height in the final decade of the twentieth century, capital and state in China have faced increasing and sustained levels of labor militancy. The alternative unions that flourished in the early years of the post-Soviet era found themselves outmaneuvered by the FNPR and the political clout it derived from its links with the new ruling party on the basis of a social partnership with capital.

Thus the Chinese working class has been prevented from developing its own independent trade union with the capacity to learn from past struggles

and develop strategy accordingly. Instead, the growing militancy in China has led to the ACFTU channeling unrest at first into juridical channels of dispute resolution and, when that failed to ensure industrial harmony, into anxious experiments with collective bargaining and trade union accountability within existing legal constraints and policy. In Russia, the impetus for trade union reform has not come from militancy but via competition from alternative trade union organizations with the potential to challenge the FNPR in the workplace. The latter's leadership adopted a strategy of compromise over class struggle that has by and large allowed them to redirect the pressure from alternative unions toward a juridical terrain and, in general, defuse outbreaks of militancy via an insistence on due process and the rule of law over solidarity and strengthening primary-level union organizations. The recent success of the MPRA in building from the shop floor up suggests that a renewed challenge to this strategy may emerge in the near future.

Despite the key difference on freedom of association, the question we are left with takes us back to transition and the title of the chapter. Is the nascent Chinese labor movement that has emerged over the last decade in a liminal state and on the threshold of developing organizational capacity outside existing structures of state sponsored power? Can revitalized alternative trade unions challenge the domination of the FNPR and the straitjacket of social partnership it has donned in exchange for hegemony over alternative unions and political influence? In this chapter I have argued that a key factor in determining the outcome is indeed the power from below. The future of trade unions in China and Russia lies in the ability of workers to generate collective workplace organization with the capacity to harness and develop the sources of union power within the unions, and beyond, into society itself.

Notes

INTRODUCTION

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5. Anita Chan and Robert J. S. Ross, "Racing to the Bottom: Industrial Trade without a Social Clause," *Third World Quarterly* 24, no. 6 (2003): 1011–28.

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8. Because the number of delegates from each ITUC affiliate nation that are allowed to participate in their convention is proportional to the size of the nation's union membership, the ACFTU's union membership will be much larger than that of the entire ITUC's union membership of all member states. The size of China's trade union membership poses a problem, but this is not discussed in the international trade union community.

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CHAPTER 1

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CHAPTER 2

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8. They are also called "outflow" workers; i.e., they travel out of their home province to work. See the Office of Residential Investigation of the NBS, "The Number, Composition and Characteristic of New Generation Migrant Workers" [in Chinese], 2011, National Bureau of Statistics of the People's Republic of China, http://www.stats.gov.cn/ztjc/ztfx/fxbg/201103/t20110310_16148.html. The report is based on regular NBS reports on migrant workers as well as a survey of migrant workers in ten provinces in 2010.

9. The NBS survey shows that 46.3% strongly agreed and 41.6% agreed with the statement "I belong to my hometown"; 23% strongly agreed and 45.5% agreed with the statement "I am a peasant"; 4.3% strongly agreed and 18.5% agreed with the statement "I am an urban resident."

10. ACFTU, "Investigative Report on the New Generation Migrant Workers" [in Chinese], 2010, http://news.xinhuanet.com/politics/2010-06/21/c_12240721.htm.

11. NBS, *China Statistical Yearbook 2012*.

12. Labor Dispatch Research Group of the ACFTU, "Investigation of the Current Conditions of Dispatch Labor in China," *China Labor* 5 (2012): 23–25 [in Chinese], http://mall.cnki.net/magazine/Article/LDKX201205010.htm.

13. For a review of education and skills in China, see, Yiqiong Li, Peter Sheldon, and Jian-Min Sun, "Education, Training and Skills," in Sheldon et al., *China's Changing Workplace*, 111–28.

14. ACFTU, "Investigation of the Current Conditions of Dispatch Labor."

15. The issue becomes complicated when we consider that the majority of migrant workers are employed in the service sector, which requires considerably less formal education than does the manufacturing sector. In other words, the average level of education among migrant workers in manufacturing may well be higher than for those in the service sector or for second-generation migrant workers as a whole.

16. This is based on my interviews with SOE managers. As SOEs are seen as offering higher wages and benefits as well as better employment security, college graduates facing a very competitive job market are choosing to work in SOEs.

17. ACFTU, "Investigative Report on New Generation Migrant Workers."

18. See, e.g., Lee Ching Kwan, "From the Specter of Mao to the Spirit of the Law: Labor Insurgency in China," *Theory and Society* 31, no. 2 (2002): 189–228.

19. Maoism may be recalled in a negative way, however, by managers who are now benefiting from the power and privilege attached to managerial positions in SOEs since the reforms.

20. Chan and Siu, "Chinese Migrant Workers," in Carrillo and Goodman, *China's Peasants and Workers*.

21. Cited in Yi Zhang, "Income Situation of the New Generation of Migrant Workers and Their Attitude Towards the Change of Hukou Registration," in *Chinese Society: Analysis and Forecast 2011*, Institute of Sociology, Chinese Academy of Social Sciences, 2010, [in Chinese], http://www.sociology2010.cass.cn/upload/2012/08/d20120821164452276.pdf. The National Population and Family Planning Commission survey was based on random samplings from multiple cities and 122,800 questionnaires.

22. Minghua Zhao and Theo Nichols, "Management Control of Labour in State-Owned Enterprises: Cases from the Textile Industry," *China Journal* 36 (July 1996): 1–21.

23. Anita Chan and Kaxton Siu, "Analyzing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories," *Critical Asian Studies* 42, no. 2 (June 2010): 167–90.

24. After a student group exposed the irregular use of casual workers in Coca-Cola bottling plants in 2008 and 2009, the management converted the dispatch workers to regular workers but cut back on their overtime, which workers saw as a punishment. Without a corresponding increase in wages, the decrease in overtime left workers worse off financially. For more details about the student investigation, see China Labor News Translations, "Chinese Students Go Undercover to Investigate Coca Cola," September 16, 2009, http://www.clntranslations.org/article/41/chinese-students-go-undercover-to-investigate-coca-cola.

25. See chapter 4 of this book.

26. Jonathan Kaiman, "China Is Buying Robots Like There's No Tomorrow," *Business Insider*, November 13, 2012, http://www.businessinsider.com/china-is-buying-robots-like-theres-no-tomorrow-2012–11.

27. China, Hong Kong and Taiwan College Research Group on Foxconn, "China, Hong Kong and Taiwan College Investigative Report on Foxconn," 2010 [in Chinese], http://tech.sina.com.cn/it/2010-10-09/09574726168.shtml.

28. *China Labour Bulletin*, "Strikes and Protests Continue into the New Year," January 9, 2012, http://www.clb.org.hk/en/node/101213.

29. This is to be distinguished from the monthly bonus, which is based on performance.

30. "SOE Profit Down by 5.8% Last Year," *China Securities Journal*, January 19, 2013, http://www.cs.com.cn/english/.

31. Eli Friedman and Ching Kwan Lee, "Remaking the World of Chinese Labour: A 30-Year Retrospective," *British Journal of Industrial Relations* 48, no. 3 (2010): 507–33.

32. Department of Sociology, Tsinghua University and *Gongzhong Wang* [Labour Net], "Short-Term Employment: The Trend of Migrant Labor Employment," January 2012 [in Chinese], http://job.gzh.com/yanjiu/zhuanti/duangong/index.html.

33. Ibid.

34. "Authoritative Report Claims Dispatch Labor Reaches 60 Million," *Economic Observer*, Feburary 25, 2011.

35. ACFTU, "Investigation of the Current Conditions of Dispatch Labor in China."

36. Ibid.

37. This has been discussed by Zhang Lu in regard to the Chinese auto industry, Lu Zhang, "The Paradox of Labor Force Dualism and State-Labor-Capital Relations in the Chinese Automobile Industry," in *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China*, ed. Ching Kwan Lee, Sarosh Kuruvilla, and Mary E. Gallagher (Ithaca: Cornell University Press, 2011), 107–37.

38. "Excessive Use of Dispatch Labor Causes Labor Disputes" [in Chinese], *Legal Daily*, May 18, 2011.

39. Lucy Hornby, "China Tightens Loophole on Hiring Temporary Workers," Reuters, December 28, 2012.

40. "A Decade of Change: The Workers' Movement in China 2000–2010," *China Labour Bulletin*, March 28, 2012, http://www.clb.org.hk/en/content/decade-change-workers-movement-china-2000–2010. Although the report can only record a small proportion of all protest and strike activities in China in this period, it is indicative of the trend.

41. Chan, *Challenge of Labor in China*.

42. See, e.g., Anita Chan, "Strikes in China's Export Industries in Comparative Perspective," *China Journal* 65 (January 2011): 27–52.

43. Chan and Unger, "Chinese State Enterprise under the Reforms."

CHAPTER 4

1. See, e.g., Jonathan Watts, "Strikes in China Signal End to Era of Low-Cost Labour and Cheap Exports," *Guardian*, June 17, 2010, http://www.guardian.co.uk/world/2010/jun/17/china-strikes-economy.

2. Quoted in Tom Miller, "China's Plan to Empty the Bird Cage," *Financial Times*, June 10, 2009, http://search.ft.com/search?queryText=empty+the+bird+cage&ftsearchType=on.

3. Robert Lawrence Kuhn, "Guangdong Visions: A Talk with Wang Yang," *Bloomberg Businessweek*, June 5, 2009, http://www.businessweek.com/globalbiz/content/jun2009/gb2009065_691758.htm .

4. See, e.g., Anita Chan, *China's Workers under Assault: The Exploitation of Labor in a Globalizing Economy* (Armonk, NY: M. E. Sharpe, 2001); Ngai Pun, *Made in China: Women Factory Workers in a Global Workplace* (Durham: Duke University Press, 2005).

5. A widely discussed case was the Guangdong government's withdrawal from plans to introduce regulations on collective negotiations between workers and employers after it met heavy resistance from employers associated with the low-end labor-intensive production mode. See Florian Butollo and Tobias ten Brink, "Challenging the Atomization of Discontent: Patterns of Migrant-Worker Protest in China during the Series of Strikes in the Summer of 2010," *Critical Asian Studies* 44, no. 3 (2012): 419–44.

6. Boy Lüthje, Stefanie Hürtgen, Peter Pawlicki, and Martina Sproll, *From Silicon Valley to Shenzhen: Global Production and Work in the IT Industry* (Lanham, MD: Rowman and Littlefield, 2013).

7. Stephanie Barrientos, Gary Gereffi, and Arianna Rossi, "Economic and Social Upgrading in Global Production Networks: Developing a Framework for Analysis," Capturing the Gains Working Paper No. 3, School of Environment and Development, University of Manchester, England, July 2010, 7.

8. See, e.g., the critical discussion of modernization theory in Alain Lipietz, *Mirages and Miracles: The Crises of Global Fordism* (London: Verso, 1987), 1.

9. Gary Gereffi, "The Global Economy: Organization, Governance, and Development," in *The Handbook of Economic Sociology*, ed. Neil J. Smelser and Richard Swedberg (Princeton: Princeton University Press and Russell Sage Foundation, 2005), 171–4.

10. The term "economic upgrading" is used in literature to include the transition to the service sector (see Barrientos, Gereffi, and Rossi, "Economic and Social Upgrading," 6). As my research focuses on manufacturing industries, I will, however, use the term "industrial upgrading."

11. Cornelia Staritz, Gary Gereffi, and Oliver Cattaneo, editorial in "Shifting End Markets and Upgrading Prospects in Global Value Chains," special issue, *International Journal of Technological Learning, Innovation and Development* (*IJTLID*) 4, nos. 1/2/3 (2011): 4 (henceforth, "Shifting End Markets," *IJTLID*).

12. Barrientos, Gereffi, and Rossi, "Economic and Social Upgrading," 4–7.

13. Compare ibid.; "Shifting End Markets," *IJTLID*; and Lüthje et al., *Silicon Valley*.

14. See http://www.capturingthegains.org/.

15. Barrientos, Gereffi, and Rossi, "Economic and Social Upgrading," 15.

16. Boy Lüthje, Siqi Luo, and Hao Zhang, *Beyond the Iron Rice Bowl: Regimes of Production and Industrial Relations in China* (Frankfurt: Campus, 2013), 261–62. See also Lüthje's chapter 1 in this book.

17. Quoted in "Gaizao tisheng chuantong chanye ye shi chanye zhuan xing shengji [Industrial upgrading also implies transforming and upgrading traditional industries]," *Nanfang ribao, Nanfang Wang*, August 26, 2010.

18. Dieter Ernst, "Beyond the Global Factory Model: Innovative Capabilities for Upgrading China's IT Industry," *International Journal of Technology and Globalization* 3, no. 4 (2007): 443.

19. OEM means that the supplier is responsible for the entire task of supply-chain management while design and marketing remain with the buyers.

20. See Dieter Ernst and Barry Naughton, "China's Emerging Industrial Economy: Insights from the IT Industry," in *China's Emergent Political Economy: Capitalism in the Dragon's Lair*, ed. Christopher A. McNally (London: Routledge, 2007), 39–59, for the IT industry; and Lüthje, Luo, and Zhang, *Beyond the Iron Rice Bowl*, for the garment sector.

21. John Humphrey and Hubert Schmitz, "How Does Insertion in Global Value Chains Affect Upgrading in Industrial Clusters?," *Regional Studies* 36, no. 9 (2002): 1017–27.

22. This is also emphasized in an article on the electronics industry in Guadalajara, Mexico, in which the authors argue that product upgrading "*required* firms to upgrade processes to accommodate rapid changeover and to add new functions." See Timothy Sturgeon and Momoko Kawakami, "Global Value Chains in the Electronics Industry: Characteristics, Crisis, and Upgrading Opportunities for Firms from Developing Countries," "Shifting End Markets," *IJTLID*: 136.

23. Lüthje, Luo, and Zhang, *Beyond the Iron Rice Bowl*, 316–17.

24. According to interview data these companies continue to receive some government support. The knitwear company received subsidies for the acquisition of CNC knitwear machines. Local government support was given as one of the major reasons for not relocating a greater share of operations to interior provinces. The Hong Kong–invested LED company gained some support from government programs that aim at the creation of "Chinese LED chips." It was stressed, however, that direct financial support is rare and insufficient.

25. Access to the companies was obtained either through direct contacts at fashion fairs and similar events, through approaching local governments and foreign investment bureaus, or (in the LED sector) through local industry associations.

26. The chosen industry associations in the field of LED are supported by provincial or local city governments in order to facilitate the technological and economic progression of the industry. They receive their funding from government and industry sources.

27. A critical reflection of these sources must acknowledge that information about the technical details of production is more reliable than that regarding "sensitive" labor issues.

This methodological challenge could not fully be resolved in this study because complementary interviews with the workers of each factory in an appropriate setting could not be conducted because of lack of access and resources. Key data on the division of labor, skill requirements, training of workers, and wage systems, however, could be verified by triangulation or comparison of individual cases so that the overall trends are reliable. Observations during the factory visits complement this information. Studies about the effects of industrial upgrading based on interviews with workers would be a fruitful task for future research.

28. Barrientos, Gereffi, and Rossi, "Economic and Social Upgrading," 7.

29. Piece rate and hourly wage schemes may each have advantages and disadvantages for certain groups of workers. On the one hand, hourly wages may help to overcome the obfuscation of total wage payments common in piece-rate schemes. On the other hand, workers may have less opportunity to earn skill- and performance-based bonuses, which is why they resisted attempts to introduce hourly wages in some cases in the garment industry out of fear that it might depress their total wages. See Anita Chan and Kaxton Siu, "Analyzing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories," *Critical Asian Studies* 42, no. 2 (2010): 167–88; and Lüthje, Luo, and Zhang, *Beyond the Iron Rice Bowl*, 266–69.

30. *China Statistical Yearbook 2010*, http://www.stats.gov.cn/tjsj/ndsj/2010/indexeh.htm.

31. Most academic literature lists the following types of production models: (1) assembly (or CMT = "cut, make, trim" in garment production): a manufacturing model in which the fabric and all product specifications are provided by the buyers; (2) OEM: the supplier is responsible for the entire task of supply-chain management, but design and marketing remain with the buyers; (3) original-design manufacturing: like OEM, but the supplier is (partially or entirely) involved in design tasks; and (4) own-brand manufacturing: the company sells products under its own brand name (while possibly outsourcing parts of their manufacturing tasks). See Stacey Frederick and Gary Gereffi, "Upgrading and Restructuring in the Global Apparel Value Chain: Why China and Asia Are Outperforming Mexico and Central America," "Shifting End Markets," *IJTLID*, 73–74.

32. Lüthje, Luo, and Zhang, *Beyond the Iron Rice Bowl*, 251–53.

33. John Giles, Albert Park, Fang Cai, and Yang Du, "Weathering a Storm: Survey-Based Perspectives on Employment in China in the Aftermath of the Global Financial Crisis," World Bank Policy Research Working Paper No. 5984, Washington, DC, March 2012, 5–9.

34. The MFA had established quotas in 1974 for imports to the United States, Canada, and many European countries. After the gradual phasing out of these restrictions, the share of Chinese products in global garment exports rose from 22% in 1995 to 41% in 2009. See Frederick and Gereffi, "Upgrading and Restructuring,"69–72.

35. Frederick and Gereffi, "Upgrading and Restructuring," 76–77; 90–91.

36. Elisa Barbieri, Marco R. di Tommaso, and Stefano Bonnini, "Industrial Development Policies and Performances in Southern China: Beyond the Specialised Industrial Cluster Program," China Economic Review 23, no. 3 (2012): 613–25.

37. The relocation of certain functions to interior provinces and economic difficulties are partially responsible for this. Yet, in each of the cases, the proportion of knitting workers to the total workforce decreased significantly, which underlines that the reduction of knitting workers mainly has to do with automation. Management staff from the smaller of the surveyed companies claimed that three in four workers were replaced after the introduction of the machines.

38. This takes into account that even in the old production model, based on semiautomated machines, knitting workers did not constitute the majority of line workers. Other processes such as finishing or linking have not been rationalized.

39. Data from the other investigated company are similar. This tendency was also confirmed in interviews with knitting-machine vendors.

40. The context for this is a trend to abolish piece-rate wage systems where automation or lean-production schemes were introduced. In a summary of findings in Chinese enterprises in the years 2009–11, Lüthje, Luo, and Zhang concluded: "Work on automated sewing or knitting machines is mostly paid by hourly wages and requires not much knowledge and working experience on the part of the operators." Experienced workers may suffer wage losses, and therefore sometimes resist (*Beyond the Iron Rice Bowl*, 268).

41. In this sense automated knitting demands that the operators acquire some new skills—but these can be acquired rather quickly. Accordingly, knitwear companies have little interest in retaining experienced workers in the factory by providing higher wages or seniority bonuses.

42. This institution, financed by the local government and some industry contributions, supports factories mainly in terms of brand creation, quality improvements, and marketing (trade fairs, advertising, e-commerce, etc.).

43. One company with six hundred employees, for instance, paid over RMB10 million for an advertising contract with a famous singer to launch its brands and spends an equivalent amount a year for agents and TV contracts. Another company with about two hundred employees operates design centers in Korea, Hong Kong, and Guangdong.

44. A representative of one fashion brand of my research sample said that a higher degree of versatility is needed, but there was a contrary statement by a representative of another brand of my research sample that used to be an OEM supplier. There is no reason to assume that versatility and quality requirements at Chinese brands are necessarily higher than at OEM supplier companies to quality brands. Improvements in terms of quality and quality control are a constant priority for all surveyed brands.

45. Automation does take place to a large degree in the textile industry. Weaving has been transformed along very similar lines as knitting by means of computer-controlled machines. Because of the vertical disintegration of the industry, textile production rarely takes place in garment companies (whereas knitting and linking are always combined in knitwear enterprises).

46. According to Lüthje, Luo, and Zhang, lean-production strategies mostly aim at the (1) reduction of inventory and the improvement of workflows, (2) improved coordination between suppliers and manufacturers, and (3) some improvement in quality through teamwork-based organization (*Beyond the Iron Rice Bowl*, 263). In this case it is the first component of the strategy that is mainly implemented. While (1) could be observed in the factory, the company practices (2) by employing the "fast fashion" model as pioneered by Zara and Benetton. This guarantees a quick translation from design to manufacturing as well as just-in-time production. Factories receive direct orders from franchise stores according to their sales and thereby reduce inventory.

47. The minimum wage in Dongguan was RMB1,100 per month in 2011.

48. Lüthje, Luo, and Zhang, *Beyond the Iron Rice Bowl*, 135–41.

49. Dieter Ernst, "Innovation Offshoring and Asia's Electronics Industry: The New Dynamics of Global Networks," *IJTLID* 1, no. 4 (Winter 2008): 551–56.

50. Jessie Lin, "China's LED Industry under the 12th Five Year Plan," *Digitimes*, July 1, 2011, http://www.digitimes.com/news/a20110701RS400.html?chid=2&mod=3&query=LED+INDUSTRY.

51. Li Gan, "Woguo LED chanye fazhan de zhiyue yinsu yu duice fenxi: Jiyu chanye jiqun wangluo fanshi de jiedu" [Study on the influences of cluster construction on the development of LED in China: An analysis based on the network paradigm], *Jingji dili* [Economic geography] 30, no. 10 (2010): 1675–80.

52. Yole Développement, "The packaged LED market is experiencing tremendous growth with an expected CAGR of 28.2% between 2009 and 2015," EPIC, December

27, 2010, http://www.epic-assoc.com/sources/led-report/pr_statusoftheledindustryreport_2010_short.pdf?ftopus=6f1cbe3777f0f7e0 .

53. In LED (or "semiconductor") lighting, light is created by photons that are emitted when electrons change the energy level on semiconductor material. Therefore, the production of specially coated semiconductor wafers through a chemical process ("etching") constitutes the core of this technology.

54. Mike Cooke, "Chinese Burn into LED Market Driving MOCVD," *Semiconductor Today* 5, no. 7 (2010), http://www.semiconductor-today.com/features/Semiconductor%20Today%20-%20MOCVD%200911.pdf.

55. The strategies of the five companies can be roughly summarized as: (1) exploring a new technological road in die production that increases product quality and allows for automation of the production process, (2) vertical integration by adding a series of lighting devices sold as own-brand products to the existing assortments of LED dies, (3) specialization by promoting one independently developed product while at the same time diversifying the assortment through own-brand lighting devices, (4) increasing the share of own-brand products for export production, and (5) specializing in niche markets for sophisticated own-design manufactured products.

56. The interview partner added that actually "one year of training and experience was necessary" but that they limit this to six months because of the rapid expansion of the industry and the high pressure to employ new staff. The company trains about ten workers a year, most of this on the job.

57. In fact this was presented as a selling point by vendors of knitting and sewing machines during my interviews.

CHAPTER 5

1. See Anita Chan, "Strikes in Vietnam and China in Taiwanese-Owned Factories: Diverging Industrial Relations Pattern," in *Labor in Vietnam*, ed. A. Chan (Singapore: Institute of Southeast Asian Studies, 2011), 211–51. The most conscious attempt to compare China and Vietnam is *Transforming Asian Socialism: China and Vietnam Compared*, ed. Anita Chan, Benedict J. Tria Kerkvliet, and Jonathan Unger (Lanham, MD: Rowman & Littlefield, 1999).

2. Anita Chan and Wang Hongzen, "The Impact of the State on Workers' Conditions: Comparing Taiwanese Factories in China and Vietnam," *Pacific Affairs* 77, no. 4 (Winter 2004): 629–46.

3. Chan, "Strikes in Vietnam and China in Taiwanese-Owned Factories."

4. See WTO Statistics database, Time Series on International Trade, August 2014, http://stat.wto.org/Home/WSDBHome.aspx?Language=E.

5. Ibid.

6. See Intertextile Pavilion, Shenzhen International Trade for Apparel Fabrics and Accessories, http://www.intertextile.com.cn/inter-pavilion/news/show.asp?xx=177.

7. WTO, Statistics database.

8. General Statistics Office of Vietnam, http://www.gso.gov.vn/default_en.aspx?tabid=494&itemid=2030.

9. The twelve-month formula is: (legal annual maximum regular hours + legal annual maximum overtime hours) / 12 months, which comes out to (2,532 hours + 200 hours) / 12 months = 228 hours. The one-month formula is: legal monthly maximum regular hours + legal annual maximum overtime hours = 211 hours + 200 hours = 411 hours.

10. Ministry of Labor, "Laodongbu guanyu qiye shixing budingshi gongzuozhi he zonghe jisuan gongshi gongzuozhi de shenpi banfa" [Measures concerning the implementation of enterprises in a nonstandard working-hours system and of accumulated

working hours], December 14, 1994, http://www.bjld.gov.cn/LDJAPP/search/fgdetail.jsp?no=739.

11. Sean Cooney, "Dynamism and Stasis: Regulating Working Conditions in China," in *Law and Fair Work in China*, ed. Sean Cooney, Sarah Biddulph, and Ying Zhu (New York: Routledge, 2012), 61–62.

12. Ibid.

13. Anita Chan and Kaxton Siu, "Analyzing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories," *Critical Asian Studies* 42, no. 3 (June 2010): 167–90.

14. Vietnamese workers reported that they only worked 26 days a month, i.e., they rarely worked on Sundays. Thus, in the calculation, we can omit the Sunday situation. Hence, the formula is: 8 hours of regular work on weekdays x $0.55 x 1 times x 22 days + 1.8 hours of overtime work on weekdays x $0.55 x 1 times x 22 days + 8 hours of Saturday work x $0.55 x 1 times x 4 days = $125.40.

15. Karl Marx, *Capital: A Critique of Political Economy*, vol. 1, intro by Ernest Mandel, trans. Ben Fowkes (London: Penguin in association with *New Left Review*, 1976), 270–83.

16. It was not until 2004 that the Chinese government began using minimum wages as a means to manage macroeconomic conditions.

17. Kaxton Siu and Anita Chan, "Strike Wave in Vietnam, 2006–2011," *Journal of Contemporary Asia*, published online May 2, 2014, DOI: 10.1080/00472336.2014.903290.

18. Taiwanese Economic and Cultural Office, "Report on the Cultural Office's Assistance to Taiwanese Business to Deal with Illegal Strikes, 19 June 2011," http://www.ctcvn-hcm.org/info_71.aspx.

19. Taiwanese Economic and Cultural Office, "A Note on Council of Taiwanese Chambers of Commerce in Vietnam Assisted Taiwanese Investors to Handle Illegal Strikes," June 6, 2011, http://www.ctcvn.org/main-nry.aspx?sn=492.

20. Siu and Chan, "Strike Wave in Vietnam, 2006–2011."

21. Ibid.

22. Marx, *Capital*. See also David Harvey, *Paris: Capital of Modernity* (New York: Routledge, 2003).

23. Siu and Chan, "Strike Wave in Vietnam, 2006–2011."

24. Nguyen Thang and Nguyen Thi Thu Phuong, "Rapid Impact Assessment 2011 in Vietnam: Synthesis Report" (Hanoi: Center for Analysis and Forecasting, Vietnam Academy of Social Sciences, 2011), 14.

25. Anita Chan, Richard Madsen, and Jonathan Unger, *Chen Village: Revolution to Globalization* (Berkeley: University of California Press, 2009).

26. Wenweipo, "Rent in Shenzhen in General Rise," July 3, 2010, http://paper.wenweipo.com/2010/07/03/YO1007030008.htm.

27. United Nations Development Program (UNDP) with the General Statistics Office of Vietnam, "Urban Poverty Assessment in Hanoi and Ho Chi Minh City of 2010," September 2010, http://www.un.org.vn/en/publications/cat_view/126-un-publications-by-agency/90-undp-publications.html.

28. VietNamNet, "Poor Work, Low Pay," February 25, 2010, http://article.yeeyan.org/view/126488/91417.

29. Vietnam Ministry of Labour, Invalids and Social Affairs, "MOLISA Demand Provincial Government to Take More Actions to Avoid Strikes," August 2011, http://tw-vn.com/vbb/printthread.php?t=28763.

30. Ibid.

31. Ibid.

32. Information on food in Vietnam is taken from the Vietnamese Household Living Standard Surveys conducted by the General Statistics Office of Vietnam. The Chinese

data come from Chinese statistical yearbooks. In both countries, there are no disaggregated statistics for migrant workers. In order to locate the groups of workers, I use the average monthly income earned by migrant workers in my survey as criteria to see which income quintiles migrant workers in the two countries belong to. In both countries, migrant workers' average monthly incomes are closest to the third income quintiles. For details of the methodology I use here, see Siu and Chan, "Strike Wave in Vietnam, 2006–2011."

33. Siu and Chan, "Strike Wave in Vietnam, 2006–2011."

CHAPTER 6

An earlier and abbreviated version of this chapter appeared as Xue Hong and Anita Chan, "The Global Value Chain: Value for Whom? The Case of the Soccer Ball Industry in China and Pakistan," *Critical Asian Studies* 44, no. 1 (March 2013), 55–77.

1. See, e.g., Rhys Jenkins, "Codes of Conduct: Self Regulation in a Global Economy," Corporate Codes of Conduct Paper No. 10, April 2001, http://digitalcommons.ilr.cornell.edu/codes/10; Dara O'Rourke, "Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring," *Policy Studies Journal* 21, no. 1 (2003): 1–29.

2. At first, they were often consulting firms based in the global North, but when the business expanded, some local firms also engaged in the monitoring industry.

3. The concept was developed from the theoretical framework of "the global commodity chain" and "global value chain." See, e.g., Gary Gereffi, Miguel Korzeniewicz, and Roberto P. Korzeniewicz, "Introduction: Global Commodity Chains," in *Commodity Chains and Global Capitalism*, ed. Gary Gereffi and Miguel Korzeniewicz (Westport, CT: Praeger, 1994), 1–14; Jennifer Bair, "Global Capitalism and Commodity Chains: Looking Back, Going Forward," *Competition and Change* 9, no. 2 (2005): 153–80; and Peter Gibbon, Jennifer Bair, and Stephano Ponte, "Governing Global Value Chains: An Introduction," *Economy and Society* 3, no. 3 (2008): 315–38.

4. See, e.g., Stephanie Barrientos and Sarah Smith, "Do Workers Benefit from Ethical Trade? Assessing Codes of Labour Practice in Global Production Systems," *Third World Quarterly* 28, no. 4 (2007): 713–29; and Richard M. Locke, Fei Qin, and Alberto Brause, "Does Monitoring Improve Labor Standards? Lessons from Nike," *Industrial and Labor Relations Review* 61, no. 1 (2007): 3–31.

5. Barrientos and Smith, "Do Workers Benefit from Ethical Trade?"

6. Peter Utting, "CSR and Equality," *Third World Quarterly* 28, no. 4 (2007): 697–712.

7. See, e.g., Archon Fung, Dara O'Rourke, and Charles Sabel, *Can We Put an End to Sweatshops? A New Democracy Forum on Raising Global Labor Standards* (Boston: Beacon, 2001); and Gay Seidman, *Beyond the Boycott: Labor Rights, Human Rights, and Transnational Activism* (New York: Russell Sage Foundation, 2007).

8. Anita Chan, *China's Workers under Assault: Exploitation and Abuse in a Globalizing Economy* (Armonk, NY: M. E. Sharpe, 2001); Anita Chan and Robert J. S. Ross, "Racing to the Bottom: Industrial Trade without a Social Clause," *Third World Quarterly* 24, no. 6 (2003): 1011–28; Anita Chan and Hongzen Wang, "The Impact of the State on Workers' Conditions: Comparing Taiwanese Factories in China and Vietnam," *Pacific Affairs* 7, no. 4 (2004): 629–46; Anita Chan and Kaxton Siu, "Analysing Exploitation: The Mechanisms Underpinning Low Wages and Excessive Overtime in Chinese Export Factories," *Critical Asian Studies* 4, no. 2 (2010): 167–90; and Hong Xue, "Local Strategies of Labour Control: A Case Study of Three Electronics Factories in China," *International Labour and Working Class History* 73 (Spring 2008): 85–103.

9. Tom Wright, "Pakistan Defends its Soccer Ball Industry," *Wall Street Journal*, April 26, 2010, http://online.wsj.com/article/SB10001424052748703465204575207982953211828.html.

10. The larger study is "Global Value Chains, Local Industrial Clusters, and CSR in the International Sporting Goods Industry," 2008–2010, funded by the Danish Social Science Research Council.

11. For details on the methodology of the project, see P. Lund-Thomsen, Khalid Nadvi, Anita Chan, Navjote Khara, and Hong Xue, "Labour in Global Production Networks: A Comparative Study of Workers Conditions in Football Manufacturing in China, India and Pakistan," *Development and Change* 43, no. 6 (2012): 1211–37.

12. Interview with the deputy general manager of a sporting goods company in London in 2009 by Khalid Nadvi.

13. Rosario Burchielli, Donna Buttigieg, and Annie Delany, "Organizing Homeworkers: The Use of Mapping as an Organizing Tool," *Work, Employment and Society* 22, no. 1 (2008): 167–80.

14. Top Ball is owned by the Taiwanese company Kuan Ho. Interview with the owner of Kuan Ho May 2010, Jiangxi. An interview with the Hong Kong owner of a sporting goods company at his factory in Guangzhou in January 2009 provided the same information.

15. Machine-stitched balls are produced on assembly lines. For example, there are 12.5 workers (one worker serves two assembly lines) in a standard machine-stitching production line in a large factory. The basic production task of a team was 450 balls a day, which means each factory stitcher's productivity was 36 balls (450/12.5).

16. Interview with Adidas staff May 2010, Guangzhou; Pakistan Institute of Labour Education and Research (PILER), *Labour Standards in Football Manufacturing Industry: A Case Study of a Nike Vendor in Sialkot, Pakistan* (Karachi: PILER Centre, 2009), 11. Other brands have tried to catch up and to develop the same technology, and Nike has begun producing a similar ball according to an interview at the Nike office in Guangzhou, May 2010.

17. Interview at the Adidas office May 2010, Guangzhou.

18. Thomas Fuller, "In a Steamy Thai Factory, Soccer Ball Makers Put their Stamp on the World Cup," July 2, 2006, http://www.nytimes.com/2006/07/02/business/worldbusiness/02iht-ball.2100557.htmlr=0.

19. Interviews with suppliers in Nanjing and Dongguan, March 2010.

20. Nike had sourced hand-stitched balls from Saga Sports in Sialkot for many years until Nike cancelled its order in November 2006 because of the manufacturer's unauthorized outsourcing to home-based production. In May 2007 Nike resumed sourcing soccer balls from a new factory-based supplier, Silver Star.

21. Kamala Sankaran, "Labor Law in South Asia: The Need for an Inclusive Approach," Discussion Paper Series No. 176, International Institute of Labor Studies, Geneva, 2007, 2.

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24. Hill, "Indian Industrial Relations System," 404.

25. International Minimum Wage Rates 2011, Minimum-Wage.org, http://www.minimum-wage.org/international/en/Pakistan (accessed November 1, 2011).

26. Farhan Zaheer, "Minimum Wage: Yet Another Failed Act?," August 2, 2010, http://tribune.com.pk/story/33562/minimum-wage-yet-another-failed-act/.

27. PILER, *Labour Standards in Football Manufacturing Industry*, 13.

28. Zaib Azkaar Hussain, "All Toil, Low Pay," *Kolac* (The News) http://jang.com.pk/thenews/may2011-weekly/nos-01-05-2011/kol.htm.

29. PILER, *Labour Standards in Football Manufacturing Industry*, 11.

30. For example, 2008–9 witnessed inflation of 17%. PILER, *Labour Rights in Pakistan: Declining Decent Work and Emerging Struggles* (Karachi: PILER Centre, 2010), 9.

31. Interview June 3, 2009, Sialkot.

32. This very intricate patron-client relationship among construction workers in Pakistan is well documented and analyzed by Aasim Sjjad Akhtar in "Patronage and Class in Urban Pakistan," *Critical Asian Studies* 43, no. 2 (2011): 159–84.

33. PILER, *Labour Standards in Football Manufacturing Industry*, 24–5.

34. See http://www.paycheck.in/main/officialminimumwages/punjab.

35. Interview January 10, 2009, Nantong, Jiangsu Province.

36. Kuan Ho's original Top Ball factory was located in Guangdong Province, but the company gradually expanded to set up Smart Ball in Jiangxi farther north. Today Top Ball only has about two thousand workers, and the newer site has more than five thousand.

37. According to China's labor law, eight hours a day and five days a week are the regular working hours. Workers are legally required to be paid 1.5 times the normal hourly wage for overtime, and double and triple on weekends and public holidays. On the serious violations of these legal requirements, see Chan, *China's Workers under Assault*.

38. C. Yan, "*Shijiebei Putiantongqing, Wei zhiqiu Gongren Shangxin*" [Workers Get Only Low Wages from Making Jabulani Balls for World Cup], *Meiri Jingji Xinwen* [National business daily], July 9, 2010, http://www.nbd.com.cn/newshtml/20100709/2010070903484634.html.

39. "Jiangxi Taizi Qiye Chuanchu Renming, Shuqianming Gongren Bagong Zachang" [It is rumored that one person died after several thousand workers in a Taiwanese factory in Jiangxi Province went on strike and smashed the factory], Sina.com, June 10, 2010, http://blog.sina.com.cn/s/blog_4999f0bf0100it2k.html.

40."Offside: Child Labor in Football Stitching," Bachpan Bachao Andolan (Save the Childhood Movement), October 6, 2008, http://www.bba.org.in/?q=content/offside-child-labour-football-stitching, 15.

41. Farzad Rafi Khan and Peter Lund-Thomsen, "CSR as Imperialism: Towards a Phenomenological Approach to CSR in the Developing World," *Journal of Change Management* 11, no. 1 (2011): 73–90.

42. PILER, *Labour Standards in Football Manufacturing Industry*, 23.

43. Farzad R. Khan, Kamal A. Munir, and Hugh Willmott, "A Dark Side of Institutional Entrepreneurship," *Organization Studies* 28, no. 7 (2007): 1057.

44. ILO, "The Sialkot Story: Making Villages 'Child Labour Free,'" *Economic Review* 28, no. 4 (1997): 33, http://findarticles.com/p/articles/mi_hb092/is_n4_v28/ai_n28687247/.

45. PILER, *Labour Standards in Football Manufacturing Industry*, 9, 29.

46. Jeffrey Hays, "Prisons, Labour Camps, and Detention Centers in China," Facts and Details, 2008 (updated November 2011), http://factsanddetails.com/china/cat8/sub50/item1646.html; Serena Solomon, "Plea for Help from Man Claiming to be Chinese Prisoner Found in Saks Bag," *DNAinfo New York*, April 29, 2014, http://www.dnainfo.com/new-york/20140429/midtown/plea-for-help-from-man-claiming-be-chinese-prisoner-found-saks-bag.

47. On how this new economic policy affected Chinese prison organizational structure, see, e.g., Anita Chan, Zhu Xiaoyang, and Josephine Fox, eds., "Encounters with Legalized Illegality: Liu Shanqing, the Democracy Movement, and Prison Reforms," special issue, *Chinese Sociology and Anthropology* 26, no. 4 (Summer 1994); James D. Seymour, "Profit and Loss in China's Contemporary Prison System," in *Remolding and Resistance among Writers of the Chinese Prison Camp*, ed. Philip F. Williams and Yenna Wu (London: Routledge, 2006), 157–73; and Hualing Fu, "Punishing for Profit: Profitability and Rehabilitation in the Laojiao Institution," in *Engaging the Law in China: State, Society, and Possibilities for Justice*, ed. Neil J. Diamant et al. (Stanford: Stanford University Press, 2005), 213–30.

48. Memorandum of Understanding between the United State of America and the People's Republic of China on Prohibiting Import and Export Trade in Prison Labor Products, August 7, 1992, http://www.jstor.org/pss/20693732.

49. Starting about ten years ago prison labor in China has not been much criticized by the US media, perhaps because Americans no longer have the moral authority to point a finger at China. As US privatized prisons and their inmate populations have expanded, putting inmates to work for commercial corporations has become a normal practice. In US state prisons, prisoners are paid from $0.13 to $0.32 an hour and in federal prisons, $0.12 to $1.15. See Heather Ann Thompson, "The Prison Industrial Complex: A Growth Industry in a Shrinking Economy," *New Labor Forum* 21, no. 3 (2011): 39–47.

50. Goliath, Business News Knowledge on Demand, "Work-Prison: US District Court Slavery," http://goliath.ecnext.com/coms2/gi_0199–3225387/50-Work-prisoner.html. This is a summary of the case Bao Ge vs. Li Peng, 201 F.Supp.2d 14 (D.D.C. 2000). Chinese citizens who were allegedly forced into slave labor in prison camps tried to bring a class action suit against Chinese government entities and individuals, the Bank of China, and a private corporation (Adidas), whose soccer balls were allegedly assembled by the workers. The US District Court, District of Columbia, dismissed the case, finding that it lacked jurisdiction.

51. Such information can be found in two kinds of websites: one is the list of soccer ball manufacturers from e-commerce websites and the other is about prison factories on the websites of national and local prisons.

52. All but two of those informants who told us about prison labor were aware of this problem, including two human resource managers.

53. Interview November 28, 2009, Jiangsu.

54. E-mail from a manufacturer on July 19, 2010.

55. James D. Seymour, "Profit and Loss in China's Contemporary Prison System," in *Remolding and Resistance among Writers of the Chinese Prison Camp*, ed. Philip F. Williams and Yenna Wu (London: Routledge, 2006), 157–73; Fu, "Punishing for Profit,"; Cheng Shing, "Inmates during Incarceration and Social Workers Working on Ex-Convict Rehabilitation in China," MPhil thesis, University of Hong Kong, 2009.

56. This article about the prison factories in China described at length how to teach inmates skills such as stitching soccer balls, sewing carpets, repairing and making medical boxes. See, e.g., Zhang Qunfang, "A Brief Analysis of Enterprise Management Methods in Prisons under a Reform Environment," Zhejiang: China Academic Journal Electronic Publishing House (June 2006), 84–86, http://www.hnfzb.com/hnfzb/kfpd/xtpd/sifa/2011/05/19/61996.shtml.

57. Shing, "Inmates during Incarceration," 67–75.

58. Interview November 28, 2009, in Jiangsu, and telephone interview on January 27, 2010.

59. See, e.g., Wang Sufen, "Zuifan Laodong Baochou Quan Zhi Xingsi" [Reflections on criminal labor rights to remuneration], *Faxue* [Legal studies] 4 (2004): 36–41; Dang Chongwu, "Zuifan Laodong Baochou Quan Chuitan" [Discussion on criminal labor's right to remuneration], *Lanzhou Jiaotong Daxue Xuebao* [Journal of Lanzhou Jiaotong University] 30, no. 2 (2011): 34–36; and Chen Jufeng, "Qiantan Laojiao Renyuan Chaoshi Gongzuo de Wenti he Duice" [Discussion of the problems and solutions of overtime work of inmates], *Fazhi he Shehui* [Legal system and society] 2 (2008): 151–53.

60. The wage system for prisoners was first implemented in prisons in Fujian Province in 2003. See http://huaxia.com/xw/dlxw/2003/12/236529.html.

61. Ibid.

62. Related information can be found at http://cnprison.com/Theoretics/2009–2–14/78996ED0-EBC9–4A7A-8A9C-D66A8F4EAF49.html.

63. Chen, "Qiantan Laojiao Renyuan Chaoshi Gongzuo de Wenti he Duice," 151.

64. In the toy, garment, and electronics industries in Guangdong,11-hour workdays six or seven days a week are the norm. See, e.g., Anita Chan and Kaxton Siu, "Analysing Exploitation"; Hong Xue, "Local Strategies of Labor Control: A Case Study of Three Electronic Factories in China," *International Labor and Working Class History* 73, no. 1 (March 2008): 85–103; and Pun Ngai, Lu Huilin, Guo Yuhua, and Shen Yuan, *Fushikang huihuang beihou de lianhuatiao* [The multiple jumps behind the glories of Foxconn] (Hong Kong: Commercial Press, 2011), 50–55. In one case a Foxconn worker chalked up 103.36 hours in one week.

65. A private conversation he and Anita Chan had when working on a project together in China in 2004.

66. Robert J. S. Ross and Anita Chan, "From North-South to South-South: The True Face of Global Competition," *Foreign Affairs* 81, no. 5 (2002): 8–13.

67. Because some industries have to manufacture in modern factory settings, there has also been an increase in India in the number of bigger production facilities, though simultaneously small units of fewer than ten employees also continue to expand. See Thomas Barnes, "Informalisation and the Social Relations of Production: Insights from Urban Karnataka, 1990–2005," *Work Organisation, Labour and Globalisation* 5, no. 1 (2011): 58–74.

CHAPTER 7

1. Philippe C. Schmitter, "Still a Century of Corporatism," *Review of Politics* 36, no. 1 (1974): 85–131.

2. Philippe C. Schmitter, "Reflections on Where the Theory of Neo-Corporatism Has Gone and Where the Praxis of Neo-Corporatism May Be Going," in *Patterns of Corporatist Policy-Making*, ed. Gerhard Lehmbruch and Philippe C. Schmitter (London: Sage, 1982); Alan Cawson, *Corporatism and Political Theory* (Oxford: Basil Blackwell, 1986), 69–71.

3. Anita Chan and Jonathan Unger, "Associations in a Bind: The Emergence of Political Corporatism," *Associations and the Chinese State: Contested Spaces*, ed. Jonathan Unger (Armonk, NY: M. E. Sharpe, 2008), 51.

4. Though it did not exist as a real organization, some figurehead individuals were appointed to head it and were allocated seats in the National People's Congress and National Political Consultative Committee. Beginning in the 1980s the organization began to have real members and continues to have seats allocated to it.

5. See Chan and Unger, "Associations in a Bind."

6. Chen Feng, "Industrial Restructuring and Workers' Resistance in China," *Modern China* 29, no. 2 (2003): 237–62.

7. Translation, quoted from *China Labour Bulletin*, "CLB Analysis of the New Trade Union Law," February 28, 2002, http://www.clb.org.hk/en/node/1582.

8. See Bill Taylor and Li Qi, "Is the ACFTU a Union and Does It Matter?," *Journal of Industrial Relations* 49, no. 5 (2007): 701–15; and Lee Ching-Kwan, *Against the Law: Labor Protests in China's Rustbelt and Sunbelt* (Berkeley: University of California Press, 2007).

9. Taylor and Li, "Is the ACFTU a Union?"

10. Ibid.

11. Chen Feng "Union Power in China: Source, Operation, and Constraints," *Modern China* 35, no. 6 (2009): 662–89.

12. Chen, "Union Power in China"; Simon Clarke and Tim Pringle, "Labor Activism and the Reform of Trade Unions in Russia, China and Vietnam" (paper presented at the Economic and Social Research Council (ESRC) Non-Governmental Public Action Labour Workshop, London, December 10, 2007), available at http://www.warwick.ac.uk/fac/soc/complabstuds/russia/ngpa/LaborActivism.doc.

13. Chen, "Union Power in China."

14. See Taylor and Li, "Is the ACFTU a Union?"; Shen Jie, *Labor Disputes and their Resolution in China* (Oxford: Chandos, 2007), 73; and Ellen D. Friedman, "US and Chinese Labor at a Changing Moment in the Global Neoliberal Economy," *WorkingUSA: The Journal of Labor and Society* 12, no. 2 (2009): 227.

15. Chris King-Chi Chan, *The Challenge of Labour in China: Strike and the Changing Labour Regimes in Global Factories* (London: Routledge, 2010).

16. Barrett L. McCormick, Su Shaozhi, and Xiao Xiaoming, "The 1989 Democracy Movement: A Review of the Prospects for Civil Society in China," *Pacific Affairs* 65, no. 2 (1992): 182–202; Gordon White, Jude A. Howell, and Xiaoyuan Shang, *In Search of Civil Society: Market Reform and Social Change in Contemporary China* (Oxford: Clarendon Press, 1996); Jude Howell, "Organizing around Women and Labor in China: Uneasy Shadows, Uncomfortable Alliances," *Communist and Post-Communist Studies* 33, no. 3 (2000): 355–77.

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18. See Chris King-chi Chan, "Community-Based Organizations for Migrant Workers' Rights: The Emergence of Labor NGOs in China," *Community Development* Journal 48, no. 1: 6–22.

19. Hsu Cheng-kuang, "Corporatist Control and Labor Movement in Taiwan" (paper presented at the Conference on "North-East Asia in the World Perspective," 11th Kyungpook National University International Seminar, Daegu, South Korea, May 25–27, 1988); Wang Si-tzu, "Guojia tonghe zhuyi xia de gonghui zuzhi: Tonghe zhuyu zai taiwan [Union organizations under state corporatism: Corporatism in Taiwan] (master's thesis, Anthropology Research Institute, National Tsinghua University, Taiwan, 1994); Huang Chang-Ling, "Labor Militancy and the Neo-Mercantilist Development Experience: South Korea and Taiwan in Comparison" (PhD diss., University of Chicago, 1999).

20. Hsin-chien Yu, "Zhongguo guo ming dao yu zhongguo gonghui zuzhi" [The KMT and Chinese union organizing], (master's thesis, Labor Study Institute, Chinese Culture University, 1977), chaps. 2 and 4; Lee Yun-Jei, "*Taiwan gonghui zhengce de zhengzhi jingji fenxi*" [The political and economic analysis of Taiwan's union policy] (Taipei: Chu-liu, 1992).

21. This refers to unions organized by the workers in the same occupation in the same city or county. According to the Ordinance of Labor Insurance, the occupational unions were set up as insurance agents for self-employed workers, employees working in small businesses with fewer than five employees, and small-business owners, while enterprises with more than five employee could act as agents in their own right. Workers join the occupational unions to be covered by the national labor insurance, which includes medical care, industrial accident compensation, and pensions.

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23. *Nanfang Ribao*, October 24, 2004.

24. Anita Chan, *Chinese Workers under Assault: Exploitation and Abuse in a Globalizing Economy* (Armonk, NY: M. E. Sharpe, 2001).

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26. Anita Chan, "Realities and Possibilities of Chinese Trade Unionism," in *The Future of Organised Labor: Global Perspectives*, ed. C. Phelan (Oxford: Peter Lang, 2006), 275–304; Pun Ngai, "Global Production, Company Codes of Conduct, and Labor Conditions in China: A Case Study of Two Factories," *China Journal* 54 (2005): 101–13.

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29. Anita Chan, "Challenges and Possibilities for Democratic Grassroots Union Elections in China: A Case Study of Two Factory-Level Elections and their Aftermath," *Labor Studies Journal* 34, no. 3 (2009): 293–317.

30. The above information was drawn from interviews with NGO trainers and from their reports. The case was also studied by Anita Chan (ibid.).

31. On December 10, 1979, riot police crushed a procession organized by the *Mei-li-dao* (Formosa) magazine group, a quasi–party organization of political dissenters. Suppression was followed by the imprisonment of more than one hundred activists, including eight leaders who were sentenced by a military court and given sentences ranging from twelve years to life.

32. Chris King-Chi Chan and Elaine Sio-Ieng Hui, "The Dynamics and Dilemma of Workplace Trade Union Reform in China: The Case of the Honda Workers' Strike," *Journal of Industrial Relations* 54, no. 5 (2012): 653–68.

33. In Taiwan, although martial law (1949–87) was repealed, strikes in the late 1980s could still be illegal, because another law, the Ordinance of Surveillance on Agriculture, Mining, Labor and Business in State of Emergency (1927–94), was still in place, which enabled the government to outlaw any strike at will. But in the late 1980s the KMT had lost the legitimacy to use this law (and only used it twice, according to our data).

34. See Lee Ching Kwan and Yuen Shen, "The Anti-Solidarity Machine? Labor Nongovernmental Organizations in China," in *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China*, ed. Sarosh Kuruvilla, Ching Kwan Lee, and Mary E. Gallagher (Ithaca: Cornell University Press, 2011), 173–87; and Eli Friedman, "External Pressure and Local Mobilization: Transnational Activism and the Emergence of the Chinese Labor Movement," *Mobilization* 14, no. 2 (2009): 199–218.

35. See Yubin Chiu, "Haunted by the Past, Organising the Future: Independent Labor Movements in Hong Kong and Taiwan" (PhD diss., University of Essex, Colchester, UK, 2010); and Yubin Chiu, "Old Constraints and Future Possibilities in the Development of Taiwan's Independent Labor Movement," *Capitalism Nature Socialism* 22, no. 1 (2011): 58–75.

CHAPTER 8

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2. Tim Pringle and Simon Clarke, *The Challenge of Transition: Trade Unions in Russia, China and Vietnam* (New York: Palgrave Macmillan, 2011); Vietnam Federation of Trade Unions, *The Trade Union Movement in Vietnam* (Hanoi: Foreign Languages Publishing House, 1988).

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4. Anita Chan, "Strikes in Vietnam and China in Taiwanese-Owned Factories: Diverging Industrial Relations Patterns," in Chan, *Labour in Vietnam*, 211–51.

5. Pringle and Clarke, *Challenge of Transition*.

6. In 2009 the Vietnamese government passed a national law called Decree 31 that mandated all employers and employees be educated on the labor law in three years.

7. This is exactly the situation found in Kaxton Siu's survey (chap. 5, fig. 5.1) in which he discovered that the basic wage in his sample was 30% higher than the official minimum wage. (In China it was only 8.3%.)

8. Quynh Chi Do, "The Challenge from Below: Wildcat Strikes and the Pressure from Reform in Vietnam," http://web.warwick.ac.uk/russia/ngpa/ChallengefromBelow.doc (accessed August 8, 2014).

9. Interview with Nguyen Hong Ha, deputy general director, Vietnam Chamber of Commerce and Industry, Ho Chi Minh City, December 28, 2011.

10. "Going It Alone: The Workers' Movement in China (2007–2008)," *China Labour Bulletin*, July 2009, http://www.clb.org.hk/en/node/100013.

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17. "Shenzhen Will Embark on and Normalize Direct Elections in 163 Enterprise Unions," *Southern Metropolitan News*, May 28, 2012, http://news.nfmedia.com/nfdsb/content/2012–05/28/content_46499926.htm.

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20. "Collective Wage Agreement of the Environmental Protection Industry and Commerce Head Company, Guangzhou," Collective Bargaining Agreement, Guangzhou, July 2010 [in Chinese].

21. "Initial Discussion on Collective Wage Consultation," Guangzhou, 2011 [in Chinese].

22. Guangzhou Federation of Trade Unions, Guangzhou Historical Workers Movement Research Committee, Guangzhou Workers Movement Study Group, *Talk on History of Guangzhou Workers' Movement*, April 1, 2012, Guangzhou Chubanshe.

CHAPTER 9

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2. See, e.g., Chris Chan and Elaine Hui, "The Dynamics and Dilemma of Workplace Trade Union Reform in China: The Case of the Honda Workers' Strike," *Journal of Industrial Relations* 54, no. 4 (2012): 653–68.

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6. See, particularly, chapter 8 in this book by Katie Quan. See also, Anita Chan and Irene Norlund, "Vietnamese and Chinese Labour Regimes: On the Road to Divergence," *China Journal* 40 (1998): 173; Zhu Ying and Stephanie Fahey, "The Challenges and Opportunities for the Trade Union Movement in the Transition Era: Two Socialist Market Economies—China and Vietnam," *Asia Pacific Business Review* 6, nos. 3–4 (2000): 282; Anita Chan and Hong-Zen Wang, "The Impact of the State on Workers' Conditions: Comparing Taiwanese Factories in China and Vietnam," *Pacific Affairs* 77, no. 4 (2004): 629; Lee, "Recent Industrial Relations Developments in China and Vietnam"; and Chan, "Strikes in China's Export Industries."

7. See, e.g., William Breen Creighton, William Ford, and Richard Mitchell, *Labour Law: Text and Materials*, 2nd ed. (Sydney: Law Book Company, 1993), 1146–58; and S. Deakin and G. Morris, *Labour Law*, 6th ed. (Oxford: Hart, 2012), 6–8.

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10. See, e.g., Miles v. Wakefield Metropolitan District Council [1987] 2 WLR 795: 1097.

11. Sean Cooney, Sarah Biddulph, and Ying Zhu, *Law and Fair Work in China* (London: Routledge, 2013), 53–54.

12. Creighton, Ford, and Mitchell, *Labour Law*, 1222–44.

13. Shae McCrystal, *The Right to Strike in Australia* (Sydney: Federation Press, 2010), 51–73. See also, Breen Creighton, "Enforcement in the Federal Industrial Relations System: An Australian Paradox," *Australian Journal of Labour Law* 4 (1991): 197–225; and Breen Creighton, "One Hundred Years of the Conciliation and Arbitration Power: A Province Lost?," *Melbourne University Law Review* 24, no. 3 (2000): 839.

14. Ansett Transport Industries (Operations) Pty Ltd v. Australian Federation of Air Pilots (No. 2) [1991] Vic R 98; [1991] 2 VR 636.

15. McCrystal, *Right to Strike*, 74–92. It is worth clarifying the link between decentralized bargaining and the right to strike that appeared in this reform. While a number of important labor standards are still set at the industry level in Australia, the last twenty years has seen an emphasis on negotiating at the workplace level. This is similar to the position in China (before the emergence of sectoral bargaining) and in many other countries. Ensuring workers' right to engage in industrial action enables employees and their unions to pressure employers when negotiations within a firm reach a deadlock.

16. Jean-Michel Servais, *International Labour Law* (The Hague: Kluwer Law International, 2005), 117–18.

17. McCrystal, *Right to Strike*, 27–50.

18. Ibid., 242–43.

19. Ibid., 34–35; 253–55.

20. Ibid., 86.

21. Ibid., 42; 149–51.

22. Ibid., 255.

23. Zeng Qinghong, "Regulate the Right to Economic Strike So as to Create Harmonious Labor Relations," proposal to National People's Congress, available at *China Labor News Translations*, March 7, 2011, http://www.clntranslations.org/article/62/strike+law, 5.

24. See discussion in Chang Kai, "On the Lawfulness of Strikes and Their Legal Regulation," *Contemporary Law Review* 5 (2012): 109–17 [in Chinese].

25. In February 2001, China ratified the International Covenant on Economic, Social and Cultural Rights. Article 8 (1d) of the covenant stipulates that parties to the covenant must ensure "the right to strike, but should exercise this right according to the law of each nation." The Chinese government did make a reservation seeking to exempt itself from the covenant's obligations on freedom of association for workers: "The application of article 8(1a) of the covenant to the People's Republic of China shall be consistent with the relevant principals of the Constitution of the PRC, Trade Union Law of the PRC and Labour Law of the PRC."

26. See, e.g., the provisions of the People's Republic of China Criminal Code, articles 290–93; these are public-order offences for which a "ringleader" can be sentenced to several years in jail.

27. See, e.g., the International Trade Union Congress submissions referred to in ILO, "China: Country Baselines under the ILO Declaration Annual Review (2000–2008): Freedom of Association and the Effective Recognition of the Right to Collective Bargaining (FACB)," February 15, 2008, http://www.ilo.org/declaration/follow-up/annualreview/archiveofbaselinesbycountry/WCMS_DECL_FACB_CHN/lang--en/index.htm.

28. Lance Compa, "Justice for All: The Struggle for Worker Rights in China," American Center for International Labor Solidarity (Solidarity Center), Washington, DC, and Cornell University ILR School, Research Studies and Reports, January 1, 2004, http://digitalcommons.ilr.cornell.edu/reports/33, 22. The background to many of the labor disturbances in China's northeastern "rustbelt" during the late 1990s and early 2000s has been analyzed in detail by Lee in *Against the Law*.

29. ILO Committee on Freedom of Association, "China (Case No. 2189) Report No. 333 to Governing Body," paragraphs 363–86, March 2004, http://www.ilo.org/public/english/standards/relm/gb/docs/gb289/index.htm.

30. Chang, "On the Lawfulness of Strikes."

31. Ibid., 112.

32. See, e.g., the arguments made by a law firm in relation to the Nanhai strikes, arguing that the strikers violated both the Labor Contract Law and the Law on Collective Protests, http://employment.yingkelawyer.com/2010/06/01/2130.html. The author implies disagreement with the existing legal framework. The author, however, shows how persuasive arguments about the illegality of strikes could be constructed in legal proceedings. See Kai Chang's response to these arguments in "On the Lawfulness of Strikes," 114.

33. For a debate among leading Chinese scholars, see Chang Kai, Zheng Dongliang, Qiao Jian, Feng Xiliang, and Xiong Xinfa, "Experts Discuss the Prevention and Regulation of Collective Labour Disputes in China," *China Labour* 6 (2012): 2–12 [in Chinese].

34. This discussion was in Chinese, but relevant materials have been translated at http://www.clntranslations.org/article/62/strike+law.

35. Zeng, "Regulate the Right to Economic Strike," 9.

36. Ibid., 8–10.

37. Kai Chang, "How the Government [Should] Deal with Strikes," *Economics and Finance Net*, August 5, 2010, *China Labor News Translations*, http://www.caijing.com.cn/2010–08–05/110492061.html.

38. Kai Chang, "Legislation of Right to Strike in China," (paper presented at the Globalization, Labor Rights and Labor Policy International Symposium, January 2002), http://www.airroc.org.tw/ISLSSL2005/program/doc/II-3.doc.

39. Bill Taylor, Kai Chang, and Qi Li, *Industrial Relations in China*, (Chelthenham, UK: Edward Elgar, 2003); Eli Friedman and Lee Ching Kwan, "Remaking the World of Chinese Labour: A 30-Year Retrospective," *British Journal of Industrial Relations* 48, no. 3 (2010), 507; Estlund and Gurgel, "New Deal for China's Workers."

40. Friedman and Lee, "Remaking the World of Chinese Labour."

41. See also, "IHLO Comments on Democratic Management of Enterprises Ordinance of Guangdong Province (Third Draft)," September 20, 2010, http://www.ihlo.org/LRC/Laws/000910.html.

42. See, e.g., Estlund and Gurgel, "New Deal for China's Workers."

43. The draft Regulations, however, are silent as to protections against discrimination and recrimination for workers making a demand for collective consultation prior to the commencement of wage negotiations. This is a serious concern because workers canvassing their colleagues for the high level of solidarity required to request collective consultation are vulnerable to recriminations from employers.

44. This is a relatively narrow approach to regulating the sectoral bargaining that is beginning to emerge in Guangdong and—even more so—in other parts of China.

45. Dexter Roberts, "Is the Right to Strike Coming to China?," *Bloomberg Businessweek*, August 5, 2010, http://www.businessweek.com/magazine/content/10_33/b4191018611051.htm.

46. See also, Denise Tsang, "HK Bosses Rule Out Debate on Labour Reforms," *South China Morning Post*, September 24, 2010, http://www.scmp.com .

47. See Biddulph, *Legal Reform and Administrative Detention*.

CHAPTER 10

I am indebted to Simon Clarke for his invaluable suggestions and comments, especially with regard to Russian trade unions. I also thank Peter Fairbrother for his insightful and thought-provoking observations. Special thanks to Anita Chan for her editorial guidance, support, and patience.

1. Peter Alexander, "Comparison, Transdisciplinarity and Trans-nationalism in Global Labour History" (remarks in a paper to the Comparative Chinese Labour Studies Conference, University of Technology, Sydney, November 18–19, 2011).

2. In line with standard practice, I use the term "alternative trade unions" to describe those unions that emerged independently of the FNPR, which was formerly the traditional socialist trade union federation, the All-Union Central Council of Trade Unions. For an interesting discussion on the use of the term "alternative trade unions," see Peter Bizyukov, "Alternative Trade Unions in Russia and the Reasons for the Preservation of the Split," available at http://web.warwick.ac.uk/russia/ngpa/AlttuEng.doc from the ESRC-funded research project "Post-Socialist Trade Unions, Low Pay, and Decent Work: Russia, China and Vietnam," directed by Simon Clarke and Tim Pringle, http://web.warwick.ac.uk/russia/ngpa/.

3. Erik Olin, "Working-Class Power, Capitalist Class Interests, and Class Compromise," *American Journal of Sociology* 105, no. 4 (2000): 962.

4. I use the term "socialist market economy" to refer to the development strategy employed in China and Russia until the mid-1990s. The term was not officially adopted in China until the 14th National Congress of the Communist Party of China in 1992, ironically just as the market economy was about to lose its remaining socialist characteristics. Deng Xiaoping first used the term in an interview with the *People's Daily* as early as November 1979, http://english.peopledaily.com.cn/dengxp/vol2/text/b1370.html. The

term was never officially adopted in the Soviet Union under Gorbachev, although commentators used it to rationalize the pragmatic reforms of perestroika.

5. Paul Thompson, "Disorganised Socialism: State and Enterprise in Modern China," in *Labour in Transition*, ed. Chris Smith and Paul Thompson (London: Routledge, 1992), 233–35.

6. Thompson, "Disorganised Socialism," 236.

7. Liu Aiyu, *Xuanze: Guo qi biange yu gongren cunzai xingdong* [Choices: State-owned enterprises reform and workers' subsistence actions], (Beijing: Social Science Publishing House, 2005), 78.

8. Geng Xiao, "Reforming the Governance Structure of China's State-Owned Enterprises," *Public Administration and Development* 18, no. 3 (1998): 275.

9. Joel C. Moses, "Worker Self-Management and the Reformist Alternative in Soviet Labour Policy, 1979–85," *Soviet Studies* 39, no. 2 (1987): 205–28.

10. Jude Howell, "Trade Unionism in China: Sinking or Swimming," *Journal of Communist Studies and Transition Politics* 19, no. 1 (2003): 113.

11. Gordon White, "Chinese Trade Unions in the Transition from Socialism," *British Journal of Industrial Relations* 34, no. 3 (1995): 433–57.

12. Xinhua News Agency, July 25, 1989, cited in S. H. Ng and Malcolm Warner, *China's Trade Unions and Management* (Basingstoke, UK: Macmillan, 1998), 55.

13. Anita Chan, "Revolution or Corporatism? Workers and Trade Unions in Post-Mao China," *Australian Journal of Chinese Affairs* 29 (1993): 52–55.

14. Simon Clarke, Chang Hee Lee, and Li Qi, "Collective Consultation and Industrial Relations in China," *British Journal of Industrial Relations* 42, no. 2 (2004): 253–54.

15. Simon Clarke, Peter Fairbrother, and Vadim Borisov, *The Workers Movement in Russia* (Cheltenham, UK: Edward Elgar, 1995).

16. For more details, see Tim Pringle and Simon Clarke, *The Challenge of Transition: Trade Unions in Russia, China and Vietnam* (Basingstoke, UK: Palgrave, 2011), 46–48.

17. Quoted in David Mandel, *Labour after Communism: Autoworkers and Their Unions in Russia, Ukraine, and Belarus* (Montreal: Black Rose Books, 2004), 43.

18. If state enterprises were to be competitive they also had to shed their obligations to provide housing and comprehensive welfare services to their employees, to be replaced by privatized and/or municipalized housing and contributory social and health insurance.

19. It is also necessary for there to be an agreed on plan of essential work to be carried out in the event of a strike, making it impossible to have a legal strike where such a plan has not been drawn up and adopted.

20. International Trade Union Congress, "Annual Survey of Violations of Trade Union Rights," 2012, http://survey.ituc-csi.org/Russian-Federation.html?lang=en.

21. Pringle and Clarke, *Challenge of Transition*, 26.

22. Elaine Hui and Chris Chan, "The Role of Foreign Chambers of Commerce and Government Agencies in Shaping Labour Legislation in China" (research paper commissioned by FNV Mondiaal, Netherlands, 2012). On file with the author and FNV Mondiaal.

23. Sarosh Kuruvilla, Ching Kwan Lee, and Mary Gallagher, "Introduction and Argument," in *From Iron Rice Bowl to Informalization: Markets, Workers, and the State in a Changing China*, ed. Sarosh Kuruvilla, Ching Kwan Lee, and Mary Gallagher (Ithaca: Cornell University Press, 2011,) 9.

24. Clarke, Fairbrother, and Borisov, *Workers Movement*, 339–71.

25. Clarke, Lee, and Qi, "Collective Consultation," 251.

26. Yang Lin, "Zhuazhu chongxin shenguan laoze geju, xiaochu laoze maodun yinhuan, tiaozheng laogong zhengce de jihui" [Grasp the opportunity to re-evaluate labor relations, eliminate hidden contradictions, and adjust policy], *Liaowang*, December 16, 2009.

27. Tim Pringle, *Trade Unions in China: The Challenge of Labour Unrest* (London: Routledge, 2011), 114–33.

28. China Labor News Translations, "The Wenling Model: An Experiment in Trade-Wide Collective Bargaining," October 21, 2009, http://www.clntranslations.org/article/49/wenling.

29. Lin, "Zhuazhu chongxin" [Grasp the opportunity].

30. *Vesti FNPR* 6 (2009): 134, cited in Pringle and Clarke, *Challenge of Transition*, 82.

31. *Vesti FNPR* 6 (2008): 25, 61–71, cited in Pringle and Clarke, *Challenge of Transition*, 85.

32. Lin, "Zhuazhu chongxin" [Grasp the opportunity].

33. China Labor News Translations, "Should China Create a Law on Strikes?," July 20, 2011, http://www.clntranslations.org/article/62/strike+law.

34. The information from the two case studies in this section is from the ESRC-funded research project "Post-Socialist Trade Unions, Low Pay and Decent Work: Russia, China and Vietnam," directed by Simon Clarke and Tim Pringle. See http://web.warwick.ac.uk/russia/ngpa/.

35. Wright, "Working-Class Power," 962.

36. Boris Kagarlitsky, "Rebirth of Unions in Russia," *Global Labor Strategies*, September 2006. See also Euronews, "Russian Trade Union Revival," July 20, 2012, http://www.euronews.com/2012/07/20/russian-trade-union-revival/.

37. Interview, LNGO staff member, Hong Kong, November 3, 2010.

38. Interview, LNGO staff member, Hong Kong, June 18, 2012.

39. Chris Chan and Elaine Hui, "The Dynamics and Dilemma of Workplace Trade Union Reform in China: The Case of the Honda Workers' Strike," *Journal of Industrial Relations* 54, no. 5 (2012): 653–68.

40. Christian Lévesque and Gregor Murray, "Understanding Union Power: Resources and Capabilities for Renewing Union Capacity," *Transfer: European Review of Labour and Research* 16, no. 3 (2010): 337.

41. Chris Chan, private correspondence, June 18, 2012.

42. See http://web.warwick.ac.uk/russia/ngpa/.

43. Lévesque and Murray, "Understanding Union Power," 339.

44. *Vesti FNPR* 1–2 (1999): 60, cited in Pringle and Clarke, *Challenge of Transition*, 120.

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